

Exhibit 1

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF PUERTO RICO
4 Case No. 17-BK-3283-LTS

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4 In re:
5 THE FINANCIAL OVERSIGHT AND MANAGEMENT
6 BOARD FOR PUERTO RICO,

7 as representative of

8 THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtors.

9 -----x

Case No. 17-BK-4780-LTS

10 -----x

In re:

11 THE FINANCIAL OVERSIGHT AND MANAGEMENT
12 BOARD FOR PUERTO RICO,
13 as representative of
14 THE PUERTO RICO ELECTRIC POWER AUTHORITY,
15 Debtor.

-----x

16 May 22, 2023

9:06 a.m.

17
18 VIDEOTAPED DEPOSITION of MARK
19 SHANKWEILER, held at the offices of
20 Proskauer Rose LLP, located at 11 Times
21 Square, New York, New York 10036, before
22 Anthony Giarro, a Registered Professional
23 Reporter, a Certified Realtime Reporter and
24 a Notary Public of the State of New York.
25

1
2 A P P E A R A N C E S :
3

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ALSO PRESENT:

BOB RUDIS, Videographer

BILL CRADDOCK, Concierge Tech (via Zoom)

ROCIO VALENTIN (via Zoom)

SCOTT MARTINEZ (via Zoom)

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THE VIDEOGRAPHER: Good morning. We are going on the record at 9:06 a.m. on May 22nd, 2023. Please note that the microphones are sensitive and may pick up whispering and private conversations. Please mute your cell phones at this time. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is Media Unit 1 of the video-recorded deposition of Mark Shankweiler, taken by counsel for the Official Committee of Unsecured Creditors, in the matter, In Re: The Financial Oversight and Management Board for Puerto Rico, et al., filed in the United States District Court for the District of Puerto Rico, Case No. 17-BK-3283-LTS. The location of this deposition is Proskauer Rose LLP, 11 Times Square, New York, New York.

My name is Robert Rudis. I

1 MARK SHANKWEILER

2 am the videographer. The court
3 reporter is Anthony Giarro. And we
4 represent the firm Veritext Legal
5 Solutions.

6 I'm not related to any party
7 in this action, nor am I financially
8 interested in the outcome.

9 If there are any objections
10 to proceeding, please state them at
11 the time of your appearance. All
12 appearances will be noted in the
13 stenographic record.

14 Will the court reporter
15 please swear in the witness?

16 M A R K S H A N K W E I L E R, after
17 having first been duly sworn by a Notary
18 Public of the State of New York, was
19 examined and testified as follows:

20 EXAMINATION BY

21 MR. DESPINS:

22 Q Good morning, Mr.
23 Shankweiler.

24 A Good morning.

25 Q We've met before. My name

1 MARK SHANKWEILER
2 is Luc Despins. And I represent the
3 creditors' committee.

4 Unfortunately, I have to
5 read this short statement. So if you can
6 bear with me, it's a confidentiality
7 requirement.

8 MR. DESPINS: So the speech
9 is, some of the exhibits and the
10 topics we cover today may involve
11 confidential information as defined
12 by the plan depository protective
13 order. Under paragraph 19 of the
14 amended confirmation procedures
15 order, Docket No. 3305, discussion of
16 confidential information is subject
17 to the plan depository protective
18 order. In accordance with
19 paragraph 19, all parties
20 participating in or attending this
21 deposition must sign the protective
22 order, available on the plan
23 depository protective order. If
24 anyone in attendance has not signed
25 that order, please do so, or you may

1 MARK SHANKWEILER

2 be in violation of the protective
3 order.

4 Q So let's begin.

5 I assume you've been deposed
6 several times before today?

7 A I have not. This is my
8 first deposition.

9 THE VIDEOGRAPHER: I
10 apologize. May I just move this
11 microphone? I thought the taking
12 party would be on this side. Thank
13 you. Pardon me for interrupting.

14 Q So I asked you before, have
15 you ever been deposed? And the answer
16 was no?

17 A Correct.

18 Q So let me just go through
19 the very basic rules of the road
20 regarding depositions. There always has
21 to be a verbal response. So, for
22 example, nodding of the head is not going
23 to work, unless you actually verbally
24 respond. If there are questions that are
25 not clear, please feel free to ask me to

1 MARK SHANKWEILER

2 clarify. Unless the question or your
3 counsel opposes -- interposes an
4 objection based on privilege, she can
5 interpose the objection. But you still
6 must answer the question.

7 In addition to that, here,
8 you're wearing two hats. So one is
9 you're a 30(b)(6) witness for the entire
10 board, for the board. And I will also
11 ask you questions about your personal
12 knowledge. So we need to probably
13 establish some kind of -- to make sure
14 there's no confusion. So I will ask you
15 to your personal knowledge, did you look
16 at this, did you look at that. Then
17 you're talking for your personal
18 knowledge only, otherwise you're talking
19 about as a 30(b)(6) witness on behalf of
20 the board. Is that clear?

21 A Understood.

22 MR. DESPINS: If we can post
23 Exhibit 1 which is the deposition
24 notice.

25 (The above-referred-to

1 MARK SHANKWEILER

2 document was marked as Exhibit 1 for
3 identification, as of this date.)

4 MS. STAFFORD: For purposes
5 of the Exhibit Share, it might need
6 to be in the Exhibit Share, Veritext
7 Exhibit Share folder.

8 THE CONCIERGE TECH:

9 Counsel, I'm working on
10 getting it up on the screen in
11 Exhibit Share. Exhibit Share runs
12 particular documents. It's spinning.
13 It looks like it's now in that
14 folder.

15 MR. BONGARTZ: I selected
16 Exhibit 1, and I labeled it
17 Exhibit 1. But when the stamp was
18 attached to it, it says Exhibit 2
19 now. I'm not sure why that is.

20 THE CONCIERGE TECH: I think
21 what was happening is we were both
22 trying to introduce it. Usually, I'm
23 introducing it as the attorneys were.
24 Did you want to do it by yourself?

25 MR. BONGARTZ: I was going

1 MARK SHANKWEILER

2 to do it myself. But if you've done
3 it already, I just don't know how to
4 undo the exhibit number now.

5 THE CONCIERGE TECH: I'll
6 fix that.

7 MR. BONGARTZ: Thank you.

8 Q So, Mr. Shankweiler, I'll
9 draw your attention to page 7 of Exhibit.
10 On top, there is Deposition Topic No. 1.

11 Do you see that where it
12 says, "The estimated value range of
13 potential values in cap applicable to
14 general unsecured claims"?

15 A Yes.

16 Q And you see towards the
17 bottom of the response, it says, "Subject
18 to general objections, the oversight
19 board will designate Mark Shankweiler to
20 testify regarding this topic"?

21 A I do.

22 MS. STAFFORD: I just want
23 to note for the record that it's
24 subject to both the general
25 objections and the specific

1 MARK SHANKWEILER

2 objections that were noted.

3 MR. DESPINS: Yes. Okay.

4 Q So that's the first one, the
5 30(b)(6).

6 Then in addition to that,
7 you -- the board offered a preliminary
8 list of witnesses, dated March 11th,
9 2023. We'll show that to you in a
10 second.

11 MR. DESPINS: And it's
12 Deposition Exhibit 2.

13 (The above-referred-to
14 document was marked as Exhibit 2 for
15 identification, as of this date.)

16 MS. STAFFORD: Do you mind,
17 actually, if I just mark his too with
18 Exhibit 1, Exhibit 2? Just so that
19 he doesn't get confused.

20 MR. DESPINS: Sure.

21 MR. BONGARTZ: For the
22 technician, I would like to label
23 this next exhibit, Exhibit 2 when I'm
24 going to introduce it. I just want
25 to make sure it doesn't conflict --

1 MARK SHANKWEILER

2 now it says Exhibit 3 here. I don't
3 know if you can fix that on your end,
4 because otherwise --

5 THE CONCIERGE TECH: As I
6 was trying to fix it, it's actually
7 not letting me doing it. We may be
8 doing it at the same time here.

9 MR. BONGARTZ: You want me
10 to stop?

11 MR. DESPINS: Yes, because
12 we don't want to be confused with
13 exhibit numbers. That will be a
14 recipe for disaster. So let's fix
15 that and give the technician control
16 over the exhibits.

17 MS. STAFFORD: I think
18 normally, people have been saying --
19 I have been asking the concierge, can
20 I bring up this exhibit?

21 MR. BONGARTZ: Okay. So can
22 you bring up this exhibit, which is
23 Exhibit 2, in the folder?

24 THE CONCIERGE TECH: It
25 looks like it's just hanging for me.

1 MARK SHANKWEILER

2 If you have no issues introducing
3 them, then maybe I'll just let you do
4 it for now.

5 MR. BONGARTZ: The problems
6 my exhibit numbers start with 2
7 because for some reason, Exhibit 1
8 was taken. I don't know why that is
9 the case. It's probably because we
10 were trying to do it at the same
11 time. So if I proceed, every exhibit
12 will be one exhibit number higher.

13 THE CONCIERGE TECH: When it
14 introduces and the shows the number,
15 you can edit that number. So you
16 could go back and --

17 MR. BONGARTZ: Now we have
18 two Exhibit 2s. That's the problem
19 because the first exhibit, which I
20 labeled No. 1, showed up as No. 2 on
21 the screen. So I was hoping you
22 could fix that on your end. So I
23 will proceed with Exhibit 2 now.

24 Q So Exhibit 2, I draw your
25 attention to page 4, subparagraph 8.

1 MARK SHANKWEILER

2 And it says that

3 "Mr. Shankweiler may provide testimony
4 showing the reasonableness of the
5 assumptions made with respect to the
6 estimated total amount of allowed
7 unsecured creditors against the debtor."

8 You see that?

9 A I do.

10 Q So I wanted you to have
11 this, so that we set the framework of
12 your testimony.

13 A Understood.

14 Q So let's go with a bit of
15 background first.

16 What economic degrees do you
17 have?

18 A I have a bachelor of science
19 in music education from West Chester
20 State College in Pennsylvania. I have a
21 postgraduate degree from Muhlenberg
22 College in Allentown, Pennsylvania. And
23 that would be the academic --

24 Q Postgraduate degree in what?

25 A That would be in business

1 MARK SHANKWEILER

2 administration and accounting.

3 Q Do any of these degrees
4 relate to bankruptcy or restructuring
5 issues?

6 A No.

7 Q Do you have any legal
8 training?

9 A No.

10 Q Have you ever testified as
11 an expert?

12 A No.

13 Q Have you ever published any
14 article or treaties regarding bankruptcy
15 or restructuring?

16 A No.

17 Q We will use today during the
18 deposition, the terms estimation or
19 estimating allowable claims.

20 Do you have an understanding
21 of what that means?

22 A Yes.

23 Q So could you describe for me
24 what you understand that to mean?

25 A Well, my understanding of

1 MARK SHANKWEILER

2 that is that obviously, estimation is
3 coming up with an estimate. And
4 allowable claims would be those claims
5 that would be allowed pursuant to a plan
6 of reorganization.

7 Q But who would make the
8 determination of which claim is allowed
9 and for what amount?

10 MS. STAFFORD: Objection,
11 legal conclusion.

12 A Who would make that
13 determination? I would imagine that's
14 based on the provisions of the plan of
15 reorganization.

16 Q What I meant is, is the
17 court making that determination, what
18 claims get allowed or does somebody else
19 do that?

20 A I think it would be the
21 court. But I don't know.

22 Q But when you're giving
23 testimony today as to an estimate of
24 allowed claims, do you understand that
25 you are attempting to predict what a

1 MARK SHANKWEILER

2 court or the bankruptcy court or the
3 district court in this case would allow
4 the claims at?

5 A Yes.

6 Q And what expertise do you
7 have on that topic of attempting to
8 determine what a court would allow claims
9 at?

10 A So I've been in the
11 restructuring practice since the early
12 1990s. Each one of the cases that we've
13 had, whether it be debtor or creditor,
14 involved claims estimation in order to
15 determine what value would be available
16 for creditors down the waterfall.

17 And the number of cases that
18 I've been involved with, again, where
19 we've had to deal with the claims
20 estimation process is really what I
21 believe gives me the expertise to be able
22 to evaluate and estimate claims.

23 Q I see.

24 And how do you go about --
25 now I want to talk about you personally.

1 MARK SHANKWEILER

2 How do you go about
3 determining how a particular claim would
4 be -- should be estimated at, what the
5 court would ultimately allow that? How
6 do you go about doing that?

7 A One of the first things you
8 would do is to evaluate a proof of claim,
9 review the proof of claim, determine
10 whether or not that proof of claim is
11 consistent with the books and records of
12 the company, reconcile the proof of claim
13 to the books and records, evaluate the
14 details that are included in a proof of
15 claim to determine if there's sufficient
16 support and then work through the
17 reconciliation process to determine
18 whether or not it's a valid claim.

19 Q I understand.

20 And how do you do that
21 process when the books and records don't
22 reflect an amount owed to the creditor?

23 A So you would have to
24 evaluate -- again, going back to the
25 proof of claim -- understanding what kind

1 MARK SHANKWEILER

2 of supporting documents there are and
3 work with the company and/or the
4 company's advisors to establish whether
5 or not the claim is valid, Number One,
6 and then to establish what a range of
7 that claim might be.

8 Q When you mentioned the
9 company's advisors, what type of advisors
10 are you referring to?

11 A So PREPA has a number of
12 advisors, including outside counsel,
13 which is Diaz & Vazquez. They have
14 accountants. They have other
15 professionals that while they may not be
16 PREPA's advisors, that have knowledge
17 about certain claims. So it's that
18 family of advisors that we would work
19 with in order to evaluate a claim.

20 Q I'm sorry. I didn't hear
21 the -- you said outside counsel.

22 Which outside counsel did
23 you mention?

24 A Diaz & Vazquez, as well as
25 as Corretjer.

1 MARK SHANKWEILER

2 Q And did you didn't mention
3 Proskauer.

4 A Oh. I'm sorry. Proskauer
5 as well. Thank you. That's evident
6 since they're here.

7 MS. STAFFORD: Just to be
8 here, we're not PREPA's counsel.
9 We're counsel to the board.

10 A That's right.

11 Q And what about O'Neill &
12 Borges?

13 A I didn't really have any
14 real interaction with O'Neill.

15 Q So these law firms you were
16 mentioning before are PREPA's lawyers as
17 opposed to the board's lawyers?

18 A They are retained by PREPA
19 over the years to deal with the
20 litigation and normal course legal work
21 for PREPA, on behalf of PREPA.

22 (The above-referred-to
23 document was marked as Exhibit 3 for
24 identification, as of this date.)

25 Q I would direct you to

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2 page 9, paragraph E and in particular,
3 the sentence that reads, "In connection
4 therewith, Mr. Shankweiler will discuss
5 the reasonableness of the assumptions
6 made with respect to the estimated total
7 amount of allowed general unsecured
8 claims asserted against PREPA which is
9 800 million."

10 You see that sentence?

11 A I do, yes.

12 Q Are you the one, the person
13 who made the determination that the
14 amount was 800 million?

15 A Can you rephrase that
16 question?

17 Q Sure.

18 You know that there is an
19 estimate of general unsecured claim of
20 800 million?

21 A Correct.

22 Q And the question is, what --
23 is this a number that you determined?

24 A It's a number that based on
25 our review of all the claims in our

1 MARK SHANKWEILER

2 estimation of the value of the claims,
3 yeah, me and -- my team and I came up
4 with.

5 Q Can you take me through the
6 process you and your team followed to
7 come up with that \$800 million estimate?

8 A Sure, absolutely.

9 The process included, I mean
10 initially, what you receive as a claims
11 register. We obtained all the proofs of
12 claim that were in the claims register.
13 We verified the categorization of the
14 proofs of claim. We looked at the
15 categorization, reviewed the claims to
16 determine what categories and confirm the
17 validity of the categorization of the
18 claims. We then looked at the support
19 for the claims.

20 And based on the support
21 that was provided, conferred with,
22 oftentimes, Diaz & Vazquez in order to
23 help us adjust any of the asserted claims
24 to what a reasonable expectation of that
25 claim should be. We objected to claims

1 MARK SHANKWEILER

2 which were invalid. We transferred
3 claims to ADR which resulted in an
4 adjustment to the asserted claim amount,
5 based on what a settlement amount was
6 determined. And that settlement amount
7 was done in conjunction with PREPA's
8 counsel, as well as the -- just review of
9 the actual detail of the claim in order
10 to come up with what a reasonable claim
11 is.

12 But we looked through detail
13 to determine if that claim had already
14 been satisfied. And that would be based
15 on payment history information that was
16 provided by PREPA and LUMA and through
17 conversations with PREPA's employees as
18 it relates to some of the relatively
19 large claims that were captured or
20 incorporated or included in the general
21 unsecured claims category.

22 Q There's a lot of meat in
23 there. Let me try to unpack some of
24 this.

25 You mentioned categorization

1 MARK SHANKWEILER

2 of claims and whether sufficient
3 categorization was accurate?

4 A Yes.

5 Q What did you mean by that
6 categorization?

7 A When a claim is filed, Kroll
8 will identify the category of claim --
9 we'll call that the initial
10 categorization -- will review the claim
11 to determine if there is a secondary or
12 tertiary category that we should
13 categorize it as in order to determine
14 whether or not it's a true -- that is
15 consistent, that the categories that
16 Kroll has defined it as -- is consistent
17 with the actual proof of claim.

18 Q Such as unsecured versus
19 secured or something like that?

20 A At a highest level, it would
21 be whether it's an unsecured claim versus
22 a secured claim, whether there's
23 priority. At a secondary level, it would
24 be whether it's a bond claim, whether
25 it's a customer claim, whether it's a

1 MARK SHANKWEILER

2 union claim, whether --

3 MS. STAFFORD: Is someone
4 not muted?

5 A Whether it is a litigation
6 claim as an example. So those are like
7 the secondary sort of categorizations
8 that we would have -- that we would have
9 then gone down to.

10 MR. DESPINS: There's
11 somebody that should mute their
12 phone. I don't know who that is.

13 THE WITNESS: The person
14 with the allergies.

15 MR. DESPINS: That's putting
16 it nicely.

17 Q And you also mentioned that
18 you -- not you personally, but that
19 claims were objected to?

20 A Yes.

21 Q And so can you tell me about
22 that? What I'm really interested in is,
23 have claims been objected to on the
24 merits of such claim in contrast with
25 duplicates or amends, superseded and all

1 MARK SHANKWEILER

2 that -- you understand those terms --
3 duplicate?

4 A Understood, yes. So the
5 claims oftentimes were objected to,
6 obviously, aside from the duplicates, the
7 amends. I know that we looked at claims.
8 We objected to claims based on the
9 classification. If they identify a claim
10 as a priority claim, we would object to
11 that. To the extent that there were
12 claims that through our review of the
13 books and records, we identified amounts
14 which are actually paid.

15 So we would object to a
16 claim as being partially paid, only to
17 the extent that we had records for
18 those -- that portion of the claim that
19 was paid.

20 As it relates to claims,
21 which were not necessarily related for
22 which PREPA had no liability, we objected
23 to those claims. Those are examples of
24 the types of claims that we objected to
25 or the reasons that we would have

1 MARK SHANKWEILER

2 objected to a particular claim based on
3 our review.

4 Q So not you personally, but
5 the board has objected to claims based on
6 no liability.

7 Can you give me more detail
8 on that?

9 A So an example, if we are
10 reviewing a claim and identify that claim
11 as being related to, as an example, the
12 Commonwealth or to some other non-PREPA
13 entity, based on the detail of that,
14 that's a no liability claim.

15 Q Understood.

16 So you mentioned priority,
17 satisfied claims, claims based on no
18 liability because another entity is
19 liable, rather than PREPA.

20 Any other objections on the
21 merits that you -- that hasn't been filed
22 yet?

23 A I think those are the
24 general categories of the claims that
25 we've objected to so far.

1 MARK SHANKWEILER

2 Q On a scale of one to ten,
3 where would you say that you are on the
4 process of getting rid of claims that you
5 believe are overstated or that should be
6 disallowed with ten being completed and
7 one being no progress?

8 A I know that we've filed
9 about 50 or so objections. I know that
10 we've objected to approximately half of
11 the claims that were asserted. I know
12 that there are still a number of large
13 claims that are in the process of -- that
14 we're in the process of evaluating and
15 objecting to.

16 On a scale of one to ten,
17 you know, it all depends on what the
18 measurement is, whether it's number of
19 claims or just value of claims.

20 Q But just to be clear, I was
21 asking you to focus on claims that are
22 overstated or should be disallowed.

23 Claims probably asserted
24 against PREPA should be disallowed or
25 overstate where are you on that process

1 MARK SHANKWEILER

2 on a scale of one to ten?

3 MS. STAFFORD: Objection to
4 form.

5 A I think from a dollar
6 perspective that are overstated, there's
7 going to be -- we were probably -- it's
8 hard for me to put an estimate on it.
9 But clearly, I would imagine we're at
10 least, you know, halfway, 60 percent
11 there. But there are a number of large
12 claims.

13 Q But have you objected to any
14 claims that were overstated?

15 A Yes. I believe we did, yes.
16 Those claims, yes, we have.

17 Q And claims that should be
18 disallowed that are properly asserted
19 against PREPA but should be disallowed,
20 have you objected to those?

21 A Sure.

22 Q Can you give me an example?

23 A Sure. We received -- as an
24 example, one of the claims came in at
25 \$1.1 million. We were able to confirm

1 MARK SHANKWEILER

2 with PREPA that they only had outstanding
3 invoices for 100,000 or 120,000. So that
4 is an example of a type of claim which
5 was overstated. And we objected to a
6 portion of that claim.

7 Q And you obtained a ruling to
8 that effect from the court?

9 A I would have to -- I don't
10 know if that was actually an order was --
11 I don't know if that objection actually
12 is still pending or whether it was
13 actually ruled on.

14 Q But your testimony is that
15 an objection was filed on that ground?

16 A Absolutely.

17 Q The term PPOA, does that
18 ring a bell? Do you understand those
19 acronyms?

20 A I do.

21 Q What do they stand for?

22 A Power purchase operating, an
23 operating agreement.

24 Q Have you objected to any of
25 those claims?

1 MARK SHANKWEILER

2 A I don't believe we have as
3 yet.

4 Q By the way, when were you
5 retained? When was BRG retained to
6 handle the claims process at PREPA?

7 A We were retained, I believe
8 it was in June of 2019.

9 Q What's the total amount of
10 asserted claims against PREPA as of now?

11 A I believe it's -- total
12 amount is around 27 or \$28 billion.

13 Q I didn't ask the right
14 question.

15 What is the total amount of
16 asserted claims in the general unsecured
17 class? Ballpark.

18 A Ballpark, okay, my God.
19 This is like -- I'm having a brain
20 freeze. Sorry. For general unsecured --

21 Q Sorry to interrupt.

22 But compared to the
23 800 million that you're estimating, that
24 is your estimate of a universe of claims,
25 what is that universe, ballpark, asserted

1 MARK SHANKWEILER

2 amount?

3 A I know the page it's on.
4 I'm just having a problem just trying to
5 recollect what that is. But it's higher
6 than \$800 million.

7 Q Good.

8 A Yeah.

9 Q Does the figure of
10 5.9 billion ring a bell?

11 A It could, yes. It sounds
12 reasonable. But I just -- unfortunately,
13 I just can't remember. I know where I
14 can find it.

15 Q Got it.

16 In your 800 million
17 estimate, how did you handle claims that
18 were unliquidated? Do you understand the
19 term unliquidated?

20 A I do.

21 Q So how did you handle those
22 claims? So, for example, a litigation
23 claim that says you did all sorts of bad
24 things to me, an amount sought
25 unliquidated, how do you deal with that

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2 proof of claim?

3 MS. STAFFORD: Objection,
4 form.

5 A So specifically as it
6 relates to litigation claims, we worked
7 with Diaz & Vazquez who have experience
8 with the litigation actions that PREPA is
9 involved with or that were asserted
10 against PREPA. They were able to
11 identify the nature -- first of all, they
12 had the case files. All the case files
13 were provided to Diaz & Vazquez or at
14 least most of them. When I say all, my
15 understanding is that Diaz & Vazquez had
16 obtained the case files. They would
17 evaluate the case files and come up with
18 a determination as to what in their legal
19 opinion the litigation claim would be
20 worth. And so we relied on their
21 expertise, their legal expertise in order
22 to come up with a value for that
23 particular claim.

24 Q So you get the input from
25 Diaz & Vazquez, put that in your model,

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2 and that's part of the 800 million?

3 A We incorporate Diaz &
4 Vazquez's estimates into our database,
5 our model.

6 Q Which produces the
7 \$800 million result?

8 A Yes.

9 Q And I asked you about
10 unliquidated claims. And you pivoted to
11 litigation claims.

12 So I want to make sure that
13 we were precise here in the sense there
14 are litigation claims where there's a set
15 amount asked -- PPOA claim -- saying I'm
16 owed 300 million for damages. That's a
17 litigation claim, I would think, because
18 you're not consenting to that. But
19 another one might say unliquidated. So I
20 want to go back to unliquidated claims.

21 What did you do with
22 unliquidated claims, and where would I
23 find that in your estimates? So let's
24 ignore that last part of about where I
25 find it.

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2 So let's start with, what
3 did you do with unliquidated claims?

4 MS. STAFFORD: Objection,
5 form.

6 A Again, to the extent that a
7 claim was filed and it was unliquidated,
8 first of all, there were numerous
9 unliquidated claims because it's just
10 what oftentimes happens as you know. But
11 the more significant -- where we were
12 concerned with evaluating unliquidated
13 claims would be to the extent that there
14 might be a litigation claim that was
15 liquidated or was -- or which was
16 unliquidated, the process would be to the
17 extent that there was a case that was
18 identified with a proof of claim, we
19 would work with Diaz & Vazquez to make a
20 determination as to whether or not
21 there's a true claim.

22 Q When you say a case, you
23 mean a case pending in Puerto Rico
24 somewhere?

25 A In district court, the court

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2 of first instance, things like that.

3 Q Got it. But let's assume
4 there's no case pending.

5 So what was the process to
6 determine the estimate for that
7 particular claim that went into your
8 800 million estimate?

9 MS. STAFFORD: Objection,
10 form.

11 A We would have evaluated
12 using the same process to determine --

13 Q You mean Diaz & Vazquez?

14 A Diaz & Vazquez and working
15 with, you know, our -- at the time, we
16 were still able to work with PREPA before
17 we switched to LUMA. We did that but
18 principally working with Diaz and
19 Corretjer.

20 Q We were still able to work
21 with PREPA before LUMA? I'm not sure I
22 understand.

23 A Sorry.

24 Q You need to unpack that for
25 me.

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2 A Sorry. Well, as you know,
3 that PREPA transferred its transmission
4 distribution to LUMA. And so we were
5 able to -- essentially pre-pandemic and
6 pre-transfer, we were able to work with
7 PREPA's employees, principally through
8 Diaz & Vazquez. And once it was
9 transferred to LUMA, we were able to
10 speak with the LUMA employees, but it
11 just wasn't as frequent and as easy. But
12 that's what I meant.

13 Q Understood.

14 Going back to the
15 unliquidated claims, is it your testimony
16 that you or your team has reviewed each
17 and every unliquidated claims and
18 ascribed a value to it that is included
19 in your 800 million estimate?

20 MS. STAFFORD: Objection,
21 form.

22 A No. It's not my testimony
23 that we reviewed each and every
24 unliquidated claim and included a value.

25 Q Well, let me backtrack now.

1 MARK SHANKWEILER

2 Did your team review and
3 evaluate every claim that was filed,
4 unliquidated or not?

5 A Our team went through and
6 confirmed the claims and types of claims
7 and evaluated the proof of claim for, I
8 would say, the vast majority, yes. To
9 the extent that claims were transferred
10 in, we would evaluate those. But, yes,
11 the majority of the claims, we would have
12 looked at a level to understand the
13 claim.

14 Q So would it be fair to
15 say -- and please don't adopt my
16 characterization if you're not
17 comfortable with it -- but this was
18 mostly a top-down approach, meaning
19 starting with the largest claim, largest
20 categories of claim and going down,
21 rather than a bottoms-up where you review
22 each and every claim and ascribe the
23 value to those claims?

24 MS. STAFFORD: Objection,
25 form.

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2 A So our process started with
3 a bottoms-up approach to understand the
4 types of claims that were included in
5 each category. We evaluated the claims
6 based on when we were working with Diaz &
7 Vazquez, for example, on the larger
8 claims or for the litigation claims as an
9 example. We would have asked them to
10 focus on the largest litigation claims.

11 But that's not solely what
12 we looked at. We looked at even those
13 claims, which were identified, at least
14 in the claims register, as being zero.
15 And so we've looked at --

16 Q Apologize.

17 A So we looked at each one of
18 the claims.

19 Q I'm a little bit confused
20 now because before, you said we did not
21 look at every claim and ascribed a value.
22 Now you're saying you looked at each one
23 of the claims.

24 A So I think what I was
25 answering prior to this was whether we

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2 ascribed a value. So we looked at each
3 one of the claims. To the extent that we
4 felt that a claim had to be adjusted
5 based on a review, we adjusted it. But
6 we did look at each one of the claims to
7 understand the nature of the claim and
8 make sure that it was -- to make sure
9 that it was reflected accurately in the
10 claims register.

11 Q The \$800 million estimate
12 ascribes a value for each claim filed or
13 not?

14 A The \$800 million that's
15 included in the register includes values
16 for each claim filed, plus a cushion, an
17 estimate of -- a cushion to the extent
18 that we felt that the claim could be
19 potentially higher than the amount
20 asserted.

21 As an example, in reviewing
22 one of the claims, I believe it was a
23 class action claim, it was initially
24 identified as zero. And in review of
25 that claim, we identified that that

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2 really should be \$172 million asserted.
3 So that's an example of where we had
4 identified an unliquidated claim or a
5 zero dollar value claim, contacted Kroll,
6 had that modified, evaluated the claim
7 and have included in our
8 \$800 million estimate, a value associated
9 with that claim.

10 And so that's the type of
11 process that we went on to ensure that we
12 captured value for even unliquidated
13 amounts or what was initially viewed as a
14 zero-dollar or recorded as a zero-dollar
15 value in the claims register.

16 Q A lot of moving pieces. We
17 have to be precise about this.

18 The fact that Kroll may have
19 indicated the claim is zero or somebody
20 at PREPA or in your organization ascribed
21 a zero value, that doesn't make that
22 claim an unliquidated claim.

23 A Understood.

24 Q So if I had the backup for
25 your \$800 million estimate, I would see

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2 that every claim is spoken for with a
3 value ascribed so it? That's my
4 question. I want to be very precise
5 because to be candid, I think we've
6 gotten different answers to that
7 question. This is very specific.

8 MS. STAFFORD: Objection,
9 form, and to the extent it
10 mischaracterizes his testimony.

11 MR. DESPINS: That's why
12 we're trying to clarify it.

13 MS. STAFFORD: Well, I think
14 you're mischaracterizing what he
15 previously testified to.

16 MR. DESPINS: That's why
17 he's going to clarify it.

18 Q So can you help me
19 understand this? Is there a line item
20 for every claim with a value ascribed to
21 that claim?

22 A Is there a line item?

23 Q In your analysis, it's not
24 only a one-pager; there must be some
25 backup?

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2 A Yes. There's a line item
3 for each one of the claims.

4 Q And your team or you have
5 ascribed a value to each claim that has
6 been filed against PREPA?

7 A Yes.

8 Q And that would be reflected
9 in the backup to your analysis, your
10 \$800 million estimate?

11 A Yes.

12 Q And going back to the issue
13 of unliquidated claims, for unliquidated
14 claims, those that have been filed as
15 unliquidated, your team has ascribed a
16 value for those claims in the
17 \$800 million estimate?

18 A There is value ascribed for
19 each claim.

20 Q But you did that? I'm
21 asking you and your team.

22 MS. STAFFORD: Objection,
23 form.

24 A We would have reviewed that
25 and looked at that claim to determine

1 MARK SHANKWEILER

2 whether or not it was, you know, ascribed
3 a value, yes.

4 Q Do you believe that you have
5 the expertise -- and now it's you
6 personally and your team -- to estimate
7 the allowed amount of what you referred
8 to as litigation claims?

9 A So me personally and my team
10 personally as it relates to valuation of
11 litigation claims, the answer is no. But
12 we did not -- I mean we coordinated with
13 Diaz & Vazquez, who are experts in
14 evaluating litigation claims. And we
15 used their advice as it relates to the
16 litigation claims.

17 Q And without that advice, you
18 could not have come up with your
19 estimation of 800 million?

20 MS. STAFFORD: Objection,
21 form.

22 A The estimate of
23 \$800 million includes a category for
24 litigation claims which was based upon
25 Diaz & Vazquez's input. So could you ask

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2 the question again? I'm sorry.

3 Q Without the Diaz & Vazquez
4 advice, you could not have come up with
5 your estimation of 800 million; isn't
6 that so?

7 MS. STAFFORD: Objection,
8 form.

9 A Correct.

10 Q Let's talk about the PPOA
11 claims, again, same acronym.

12 A Yup.

13 Q The asserted amount for
14 those claims is approximately
15 2.8 billion. I'm not going to hold you
16 to the -- it could be 2.7, 2.9, but that
17 general amount, does that sound right?

18 A I know that there's an
19 exhibit, the disclosure statement. I
20 think it's Exhibit O.

21 Q Yes.

22 A And so rather than tax my
23 memory, could we maybe see that to see
24 what that is?

25 Q Sure, absolutely.

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2 A That's probably where I
3 should have looked.

4 (The above-referred-to
5 document was marked as Exhibit 4 for
6 identification, as of this date.)

7 Q So that's Exhibit 4.

8 A Yes. Exhibit O. I'm sorry.

9 Q Have you had a chance to
10 look at it briefly on the question I just
11 asked you?

12 A Yes.

13 Q So what's the amount of
14 asserted claims for PPOA?

15 A The amount of the asserted
16 claims for PPOA is \$2.779 billion.

17 Q And you see there are three
18 columns, obviously. One is called
19 estimated low value; the other one is
20 estimated high value; and then there's
21 one in the middle called adjusted
22 estimated value.

23 A Yes.

24 Q I understand -- well, first,
25 let me make sure we're clear on this.

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2 The estimated value low and
3 estimated value high, does that come from
4 Vazquez and -- Diaz & Vazquez?

5 A No.

6 Q It comes from where?

7 A So we -- I believe that
8 there is an -- in the disclosure
9 statement also, there's a discussion of
10 the components of the PPOA claims. And
11 so the -- and I believe that was on like
12 page 55 or so. And so the estimation of
13 the PPOA claims, they were developed by
14 us based on our review of the claims, as
15 well as understanding of what's
16 permissible or -- when I say what's
17 permissible, it's really based on our
18 understanding of the components of the
19 claims and based on our review of the
20 PPOA contracts in consultation with both
21 Proskauer and Diaz & Vazquez as to what a
22 valid claim might be and so based on
23 inputs from -- as well as based on our
24 understanding of each one of the PPOA
25 circumstances, based on our conversations

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2 with folks in the project management
3 office down at PREPA. So there is a
4 combination of things that went into the
5 estimation of this range of claims.

6 Q But you reviewed the PPOA
7 agreements? Is that what your testimony
8 is?

9 A We reviewed the proof of
10 claims that were filed, the claims which
11 were asserted by the claimant and
12 reviewed portions of the PPOA contracts.

13 Q And do you believe that you
14 have the expertise to determine what
15 claims may be allowed based on your
16 review of contracts?

17 MS. STAFFORD: Objection,
18 form.

19 Q You personally now.

20 A I would not have. Me
21 personally, I would not feel comfortable,
22 and I don't think I have the expertise to
23 analyze a legal document and determine,
24 you know, whether or not an asserted
25 claim is a valid claim pursuant to a

1 MARK SHANKWEILER

2 contract.

3 Q And that's where you rely on
4 Proskauer or Diaz & Vazquez; correct?

5 A Correct.

6 Q Do you recall a reference --
7 you referenced the disclosure statement
8 where there's a discussion?

9 A Yes.

10 Q Do you recall there's a
11 reference at one point to the fact that
12 the majority of the PPOAs contain a
13 provision explicitly prohibiting any
14 claim on account of lost profits? Do you
15 remember that statement?

16 A Yes.

17 Q And did you verify that
18 yourself, whether that clause existed or
19 not, in the various contracts?

20 A I reviewed -- I think it was
21 Clause 13.3. And I did not verify in
22 each one of those personally, but I
23 understand that the team, either
24 Proskauer or my team did, yes.

25 Q And do you know what

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2 adjustment in the estimated amount for a
3 particular PPOA was made based on the
4 presence or absence of such clause?

5 Because it says the majority, meaning
6 it's not all. It's a majority; right?
7 So there are some that didn't have that
8 language.

9 So the question is, do you
10 recall what adjustment was made to the
11 estimated amount of the allowed claim of
12 that particular claimant based on the
13 presence or absence of such a provision
14 in the contract?

15 MS. STAFFORD: Objection,
16 form.

17 A So what we had done, we had
18 provided a similar adjustment. Again,
19 there's three components. I think what
20 we looked at when we saw a PPOA claim, we
21 reviewed the claim. They had oftentimes
22 development costs. They had lost profit.
23 And to the extent we couldn't identify
24 whether it was either of the two, it was
25 a damages claim.

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2 As it relates to the lost
3 profits, we had discussions with Diaz &
4 Vazquez as to whether or not the contract
5 permitted -- whether a valid claim could
6 be asserted for lost profits. As we
7 discussed, the PPOA contract did not
8 permit a claim related to lost profits.

9 Further, we understand in
10 our conversations with Diaz & Vazquez
11 that Puerto Rico Law does not -- would
12 not recognize a valid claim for lost
13 profits. And that's, again, based on our
14 discussions with Diaz & Vazquez.

15 And so what we did is we
16 adjusted those claims -- claim amounts
17 for each one of the PPOAs that asserted a
18 lost profit component of the PPOA claim.
19 And so we provided -- we adjusted that.

20 On the low side, we assumed
21 that it would be zero. But because a
22 number of these are in litigation, we
23 provided a high amount or a higher amount
24 of 30 percent, I believe it was. So the
25 level of cushion in there for, you know,

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2 potential litigation, we wanted to make
3 sure that we would have something just to
4 make sure that there's sufficient
5 cushion. But that's with regard solely
6 to the lost profit component.

7 Q Understood.

8 But you said that the
9 contracts did not allow for lost profit,
10 and I thought we talked about the fact
11 that the disclosure statement uses the
12 term majority.

13 A Yes.

14 Q Meaning some don't have that
15 clause; understood; correct?

16 A I understand.

17 Q So my question is, all
18 things being equal, two claimants, one
19 that has a contract with a prohibition on
20 lost profit, the other one silent on
21 that, what is the adjustment that was
22 made for that circumstance?

23 MS. STAFFORD: Objection,
24 form.

25 A Again, the advice that was

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2 provided by Diaz & Vazquez, regardless of
3 whether or not it contained a contractual
4 provision, putting that aside is that in
5 Puerto Rico, a lost profit claim would
6 not be considered a valid claim under
7 Puerto Rico Law.

8 Q So, therefore, anyone
9 asserting a lost profit got a zero for
10 that?

11 MS. STAFFORD: Objection,
12 form.

13 Q On the low side?

14 A On the low side.

15 Q Now, you mentioned that all
16 of these are in litigation or something
17 like that?

18 MS. STAFFORD: Objection,
19 form.

20 Q What did you mean by -- you
21 referred to litigation. So you'll
22 correct me. But I thought it was that
23 given that all of these are in
24 litigation.

25 MS. STAFFORD: Objection,

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2 form.

3 Q I may have misunderstood.
4 So please correct me.

5 A So I think what I said is
6 that because certain of the PPOAs have
7 been in litigation, one of the reasons
8 that we provided a range or we adjusted
9 the lost profit components of that claim
10 between 0 and 30 was to provide a cushion
11 to the extent that any litigation that
12 might be being pursued would result in a
13 higher claim than what we would have
14 adjusted to on the low side for that
15 component.

16 Q In what litigation were you
17 referring to there in your answer,
18 generally?

19 MS. STAFFORD: Objection,
20 form. Sorry. Go ahead.

21 A Generally, I know that in
22 reading the proof of claims, oftentimes,
23 you can see that there is -- the detail
24 provides that there's an adversary,
25 whether I'm using the correct legal term,

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2 but there was a dispute.

3 Q A dispute.

4 A A dispute. Maybe dispute is
5 a better term than litigation.

6 Q Okay. Fair enough.

7 Have you or -- I'm sorry.

8 I should say, has the board
9 objected to any of these PPOA claims to
10 date?

11 A I don't believe as -- to
12 date, I don't believe they have.

13 Q The part that I didn't cover
14 in Exhibit O is the middle column,
15 adjusted estimated value.

16 Could you try to define that
17 for me? I see the words. I see what low
18 is. I see what high is.

19 But adjusted estimated
20 value, can you in your own terms explain
21 that?

22 A Sure. So if you go back to
23 the disclosure statement that talks about
24 the PPOA claims and the estimation
25 process for that, there's essentially

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2 three components. Again, it would be the
3 development costs. It would be the lost
4 profit and the damages.

5 Based on our conversations
6 with and our understanding of the law and
7 based on a review of -- I think there was
8 one PPOA claim that was in arbitration.
9 We viewed the -- we did not adjust the
10 development costs. So for the
11 development costs, we generally allowed
12 those development -- allowed is not a
13 good term. We didn't adjust the
14 asserted -- the portion of the claim,
15 which asserted development cost claim, we
16 did not adjust those. So we're generally
17 allowing that as -- at the full claimed
18 value.

19 For the lost profit, we
20 essentially came up with a range from 0
21 to 30 percent. And for the damages
22 portion of the claim, we looked at the
23 type of claim, looked at the basis for
24 the claim and came up with an adjustment.
25 The midpoint that we came to here is

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2 essentially an amount that is based on
3 the -- just to provide sufficient
4 cushion, I think, in the estimation of
5 the PPOA claims. So that's really how we
6 derived that. It's really what our view
7 of the estimated value of that claim
8 would be based on the various inputs for
9 the 12 or 13 PPOA claims that we
10 reviewed.

11 Q But you used the term
12 midpoint.

13 These are not midpoints?

14 A No. This is not a midpoint.

15 Q You say for lost profit, we
16 essentially came up with a range from 0
17 to 30 percent?

18 A Right.

19 Q 0 in the low side, 30 on the
20 high. Again, I'm confused as to --

21 A Sorry.

22 Q -- in the middle column,
23 where is that 0 to 30 percent analysis
24 coming in? Is it in the middle of the
25 column, is it elsewhere?

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2 A So the 0 would be the low.
3 The estimated value would be the high.
4 And we -- the adjusted estimated value
5 here would be based on our adjustments of
6 the low and high to come up with what we
7 felt was, you know, an appropriate value
8 based on the particulars of each one of
9 the claims.

10 Q But how did you do that?

11 A It was based on judgment.
12 And in order to provide sufficient
13 cushion, to ensure that there's
14 sufficient cushion in these claims.

15 Q You mean your judgment?

16 A I would say it's a
17 combination of judgment, which was -- I
18 mean there's plenty of people, you know,
19 our views, which we are informed by our
20 discussions with both Diaz & Vazquez and
21 Proskauer.

22 Q That column, adjusted
23 estimated value, exists throughout this.

24 It doesn't apply only to
25 PPOA; correct?

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2 A Yup.

3 Q So let's talk about other
4 categories; for example, the UTICE
5 arbitration award. In this case, there's
6 no adjustment at all?

7 MS. STAFFORD: Objection,
8 form.

9 Q Or there doesn't seem to be
10 a difference between the three columns;
11 am I correct?

12 MS. STAFFORD: Sorry. The
13 UTICE litigation column?

14 MR. DESPINS: No. Sorry. I
15 was referring to the UTICE
16 arbitration awards. There are two
17 UTICE lines. I apologize.

18 Q Let's start with the UTICE
19 arbitration award.

20 So that number is constant?

21 A Yes.

22 Q Is 5,000,673 the award that
23 was received?

24 A Based on our review of the
25 proof of claim, yes, that was the amount

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2 of the award. And we -- again, yes,
3 correct. That's based on our
4 understanding of the award that was
5 provided in the arbitration.

6 Q And let's go to line --
7 there are actually numbers. So it's
8 easier if we refer to numbers. Let's go
9 to line 5, UTICE litigation.

10 A Yes.

11 Q Asserted amount,
12 224,900,000. And there's no low amount.

13 A Correct. That would be
14 zero. So we probably should put zero in
15 there as opposed to the dash.

16 Q And there is a high, which
17 is the full amount.

18 What was the -- was that an
19 asserted amount, the 224 million and
20 change?

21 A Yes. That was asserted by
22 UTICE there.

23 Q And tell me the process to
24 get from a high of 224, a low of zero,
25 and then you get what is a result of

1 MARK SHANKWEILER

2 11,000,245?

3 A So the high claim, the
4 asserted amount here, the \$224.9 million,
5 we reviewed the proof of claim. We
6 evaluated the nature of the claim and
7 what their support was and determined
8 that there was no validity in that
9 particular claim because it was really
10 based, if you read the actual proof of
11 claim, on savings that were enjoyed by
12 PREPA related to the change in health
13 care plan during a period of time, 2008,
14 2009. So it really reflected nothing
15 related to the actual claim that UTICE
16 asserted.

17 We also worked with Diaz &
18 Vazquez to obtain information from PREPA
19 related to the nature of this claim. And
20 we were -- among other things, which
21 include comparisons of the health care
22 plans, which were changed, not only for
23 UTICE, but for the PREPA employees as a
24 whole. We identified the number of UTICE
25 employees that would have been impacted,

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understood the type of claim that they were trying to assert here, understood -- we reviewed the -- I don't know if it was an arbitration. I think it may have been an arbitration award that suggested that PREPA was liable for any incremental health care benefits that would have been incurred by an UTICE member. And then we attempted to reach out to UTICE to have them provide any substance or any detail, supporting the \$224 million claim or any claim for that matter. And we did not hear anything back from them.

And so at the end of the day, based on our discussions with PREPA's -- actually, with D&V and PREPA's HR, focusing in looking at the comparison of the plans and evaluating the number of employees that could have been impacted by this, we decided that we would, in order to ensure that we would have sufficient cushion to the extent that any of these claims could be -- would be valid claims against PREPA, we

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2 provided -- I believe it was a 5 percent
3 cushion or a 5 percent estimate, just to
4 cover any potential claims that could
5 arise.

6 And I think at the end of
7 the day, it was -- it amounted to about
8 \$22,000 per UTICE employee which is the
9 basis for the adjusted estimated value.

10 Q But given that the lack of
11 the supporting documentation that you
12 mentioned and the fact that they refused
13 or did not provide it, why didn't you
14 object to that claim to get it
15 disallowed?

16 A That would be a question I
17 can't answer.

18 Q And I want to go back to the
19 issue I asked. Exhibit O, if I obtain
20 the backup from your firm on this, in
21 every category from 1 through 12, it
22 would show the value assessed by your
23 firm, by you or your firm, for every
24 claim that fits in one of these 12
25 categories; correct?

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2 MS. STAFFORD: Objection,

3 form.

4 A Yes. Just to be clear,
5 could you repeat the question? I just
6 want to make sure.

7 Q Reviewing Exhibit O, if we
8 were to look at the backup that your firm
9 has for each of Categories 1 through 12,
10 would we find an assessed value by you or
11 your firm for every claim filed that fits
12 into one of these 12 categories?

13 MS. STAFFORD: Objection,
14 form.

15 A The answer is we have a
16 value for each one of the claims in our
17 records. So, yes, there is a value for
18 each one of the claims. To the extent,
19 however, that we felt that we -- there
20 were uncertainties as to what the
21 potential amount might -- to the extent
22 that we were concerned with -- when I say
23 concerned, to the extent that we wanted
24 to ensure that there was sufficient
25 cushion, we may have provided, just like

1 MARK SHANKWEILER

2 an estimate for, you know, a cushion,
3 like an increase in the claim value if we
4 wanted to ensure that we had sufficient
5 cushion based on where we were in the
6 review of the claims.

7 Q We may be like ships passing
8 each other in the night here.

9 A We may.

10 Q You answered there is an
11 assessed value for every claim. I asked
12 you whether your firm determined an
13 assessed value for every claim.

14 A Yes. The answer is yes. We
15 have an assessed value.

16 Q So to be clear, this is not
17 just a proof of claim is filed, an X
18 amount, that's the file; in fact, each
19 claim has been reviewed and assessed a
20 value?

21 MS. STAFFORD: Objection,
22 form, asked and answered.

23 A We have a value assessed for
24 each one of the claims, yes.

25 Q Has each claim been

1 MARK SHANKWEILER

2 reviewed?

3 MS. STAFFORD: Objection,
4 asked and answered.

5 A Yes. Each claim has been
6 reviewed.

7 Q And assessed a value for
8 each?

9 MS. STAFFORD: Objection,
10 asked and answered.

11 A Yeah. A value was assessed
12 for each one of the claims.

13 Q By you or your firm?

14 MS. STAFFORD: Objection,
15 asked and answered. You can answer
16 again.

17 A The answer is that we
18 reviewed each claim. And we have
19 assessed a value. There's an assessed
20 value for each one of the claims.

21 Q But you see the difference
22 between there's an assessed value, and we
23 have assessed a value? Do you see the
24 difference between those two points?

25 MS. STAFFORD: Objection,

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2 asked and answered. You can answer
3 it again. But we're really getting
4 to the point of badgering him on a
5 question he's answered multiple
6 times.

7 A There are a number of claims
8 which were immaterial that we may not
9 have gone through individually to assess
10 a value. So to the extent that we would
11 have looked at the claim and determined
12 whether or not we had to specifically
13 assess a value, but we did look at the
14 values for all claims. And there is a
15 value that was assessed for each one of
16 the claims that we're comfortable with.

17 Q How did you determine
18 whether something was immaterial or
19 not --

20 MS. STAFFORD: Objection,
21 form.

22 Q -- based on the dollar
23 amount asserted?

24 A Yes.

25 MR. DESPINS: Why don't we

1 MARK SHANKWEILER

2 take a short break at this point.

3 THE VIDEOGRAPHER: Off the
4 record at 10:31, marking the end of
5 Media Unit No. 1.

6 (A short recess was taken.)

7 THE VIDEOGRAPHER: We are on
8 the record at 10:57. This marks the
9 beginning of Media Unit No. 2.
10 Please proceed.

11 Q Welcome back.

12 A Thank you.

13 Q So, Mr. Shankweiler, you
14 mentioned on several occasions before
15 that you received input from this firm
16 called Diaz & Vazquez?

17 A Vazquez.

18 Q Did you receive e-mails from
19 them --

20 A Yes.

21 Q -- containing their
22 recommendations?

23 A We exchanged e-mails on the
24 claims that they were reviewing,
25 principally related to the litigation

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claims. And when they sent us e-mails -- and when they sent us e-mails on those claims, they would include memos that would discuss the litigation claims, the merits, the background and what a proposed settlement amount would be or what a proposed value of that claim would be. We also received e-mails. We receive e-mails from them as it relates to the UTIER claims valuations for the grievance claims. We receive e-mails from them with regard to their work in evaluating the expropriation claims and then sometimes just hey, how you doing e-mails.

Q What about the PPOA claims? Did you consider those to be litigation claims as well?

A On the PPOA claims, we may have received some e-mails from Diaz & Vazquez on PPOA claims, but not that -- that was not necessarily related to the estimation of the claims itself. It was related to, oftentimes, the background

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2 because they're down in San Juan, because
3 they are generally at PREPA's offices
4 several times a week. They are able to
5 get questions answered that we have and
6 that we've asked them to look into
7 because of their access.

8 So we have received -- we
9 have received e-mails on PPOAs from Diaz
10 & Vazquez, but not as it relates to these
11 ranges, the estimated low, the estimated
12 high and the adjusted estimated value.
13 So it's input that we considered and
14 provided insights into us.

15 Q So not on the merits of
16 those claims from a legal point of view,
17 you don't receive memos from them?

18 MS. STAFFORD: Objection,
19 mischaracterizes testimony.

20 A So on the merits of the
21 claim, we did receive e-mails from
22 Eduardo Corretjer as it relates to
23 certain of the PPOA claims that he was --
24 his firm was responsible for representing
25 PREPA on. And I believe on two or three

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2 of those claims, he discussed the merits
3 of those PPOA claims.

4 Q Is he with the Diaz firm?

5 A He's a separate -- he is
6 retained separately by PREPA. PREPA
7 retains a number of outside attorneys
8 like any big corporation. So part of his
9 work was done in evaluating some of the
10 more complex litigation claims.

11 Q So he provided you with
12 advice on the merits of claims that he
13 had been handling in litigation, pending
14 litigation? Again, I don't want to
15 mischaracterize it. You tell me.

16 A Whether it was -- wherever
17 there were disputes, my understanding is
18 wherever there were disputes that
19 required outside counsel, litigation
20 counsel, then several, at least two, is
21 my recollection. Two other PPOA claims
22 were handled by Mr. Corretjer.

23 Q So that's two.

24 But then there's a whole
25 other universe of PPOA claims?

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2 A Yes.

3 Q And he didn't advise on the
4 merits of those, and neither did Vazquez?

5 MS. STAFFORD: Objection,
6 mischaracterizes testimony.

7 A Again, as it relates to the
8 merits of certain components of the
9 claims, Diaz & Vazquez had a few based on
10 their understanding of the contracts,
11 based on their understanding of the
12 contract rejection provisions, based on
13 their understanding of Puerto Rican Law
14 as to whether or not a particular
15 component of a PPOA claim would be a
16 valid claim.

17 And so those are the types
18 of -- those are the type of conversations
19 that we had and the kind of advice that
20 we were looking -- the insights that we
21 wanted from Diaz & Vazquez.

22 Q So Diaz & Vazquez advised
23 regarding the merits of the PPOA claims?
24 It's a yes or no.

25 A Components of it, yes.

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2 MR. DESPINS: For the
3 record, we're calling for the
4 production of those e-mails and
5 memos.

6 MS. STAFFORD: Those will
7 not be produced. They're subject to
8 common interest privilege. We have a
9 common interest with PREPA in the
10 reconciliation of claims.

11 MR. DESPINS: Okay. We'll
12 deal with that later.

13 Q Moving on back to No.
14 Exhibit, I think, 4, well, you have it in
15 front of you, which is the Exhibit O to
16 the disclosure statement.

17 There was a prior version of
18 this, was there not, that dates back to
19 December? No. Sorry. February. Sorry.
20 Let me clarify my question.

21 The board filed a disclosure
22 statement prior to this version of the
23 disclosure statement; right? It filed
24 something in December of 2022? Does that
25 ring a bell?

1 MARK SHANKWEILER

2 A I think I remember that,
3 yes.

4 Q Do you recall that that
5 version of the disclosure statement
6 announced that the estimation of the
7 unsecured claims was also \$800 million?

8 A I don't recall.

9 MS. STAFFORD: This is going
10 to be Exhibit 5?

11 MR. DESPINS: Can we make it
12 Exhibit 5? It should be.

13 MR. BONGARTZ: Yes. We can
14 make it Exhibit 5.

15 (The above-referred-to
16 document was marked as Exhibit 5 for
17 identification, as of this date.)

18 Q So do you see on page 26,
19 which is the second page of Exhibit 5 --

20 A I do.

21 Q -- a category called general
22 unsecured claims, Class 5?

23 A I do.

24 Q Estimated claim amount,
25 800 million?

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2 A I do.

3 Q So does that refresh your
4 recollection?

5 A I mean, I guess, if -- it
6 looks like, you know, this was filed on
7 December 16th, '22. And I will -- I
8 guess I can stipulate that I trust you
9 that you're not going to give me
10 something that's not correct.

11 Q My question is, does this
12 refresh your recollection about an
13 \$800 million estimate at that time?

14 A Yes.

15 Q And did you provide that
16 estimate at that time?

17 A We had provided a range of
18 estimates over the course of, you know, I
19 would say two years, refining these
20 amounts. And the estimates that were
21 provided here I think were generally
22 consistent with what our expectations
23 would be in looking at what the estimated
24 claim amounts would be for the general
25 unsecured claims.

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2 Q So this is based on reports
3 you would have provided at that time?

4 A We shared our reports with
5 Proskauer and had conversations on a
6 weekly basis. So that's what this I
7 would presume be based on.

8 MR. DESPINS: So we call for
9 production of those reports as well.

10 MS. STAFFORD: Those are
11 also privileged. And they won't be
12 produced.

13 MR. DESPINS: How are they
14 privileged again?

15 MS. STAFFORD: That's the
16 course of our ongoing work between
17 Shankweiler's firm and Proskauer in
18 relation to the development of an
19 estimate which is clearly work
20 product and clearly attorney-client
21 privilege.

22 MR. DESPINS: I hear you.

23 Next exhibit. 6.

24 (The above-referred-to
25 document was marked as Exhibit 6 for

1 MARK SHANKWEILER

2 identification, as of this date.)

3 MR. DESPINS: So that's
4 Exhibit 6.

5 Q And I would ask you to look
6 at the last page of that, which is, I
7 guess, an earlier version of Exhibit O.
8 Does that ring a bell?

9 A This is 6 over here. So
10 we're looking at a low value of
11 \$245 million. Yeah. I mean our numbers
12 and values change as we continue to do
13 work.

14 Q So why is there not a middle
15 column there? Do you know what middle
16 column I'm referring to?

17 A I do understand what middle
18 column you are referring to. I don't
19 know the answer to that.

20 Q But you prepared that
21 Exhibit O that we're looking
22 at --right?-- which is Exhibit 6?

23 MS. STAFFORD: Objection,
24 foundation.

25 A Yes.

1 MARK SHANKWEILER

2 Q Why did you decide that
3 there was a need to add a middle column
4 to Exhibit O?

5 MS. STAFFORD: And I'd just
6 caution you not to reveal any
7 privileged information.

8 THE WITNESS: Sure.

9 Q You could say that Proskauer
10 told you to do it. That's fine.

11 A No. In the estimation of
12 any -- in determining any sort of range
13 of claims, you know, we took care to, you
14 know, build up to what we believed a low
15 estimate would be, a high estimate would
16 be, to the extent was asserted.

17 And then we would have
18 wanted to come up with what we would
19 believe an adjusted estimated value would
20 be in order to ensure that there would be
21 sufficient cushion, whether it's just to
22 come up with -- you know, if you're
23 concerned that the lower value may be too
24 low based on your belief. It's a
25 midpoint. I think most ranges of claims

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2 would have midpoints. They would have a
3 high, low and an estimated. So that's
4 why we did it this way.

5 Q But it's not a midpoint, to
6 be clear; right?

7 A This is not a midpoint.

8 Q I'm talking about the column
9 that's missing from this document that's
10 in the later version of Exhibit O is not
11 a midpoint between low and high, just to
12 be clear; right?

13 A No.

14 Q But it's interesting. It
15 was not necessary for you to do that in
16 February, but it was necessary to do it
17 in March?

18 MS. STAFFORD: Objection,
19 foundation.

20 A I don't recall specifically
21 why we didn't have a middle column, an
22 adjusted estimated value column.

23 Q Let's talk about the UTIER.
24 We're going back to Exhibit 4.

25 And we're going to use

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2 numbers, so that there's no confusion
3 this time. There's an Item Number 3,
4 master claim UTIER grievances. You see
5 that line?

6 A I do.

7 Q And how is it that the high
8 amount for that item was reduced from the
9 asserted amount to a different lower
10 amount, 264,000,379? I'm asking you --
11 sorry for toggling between two exhibits.
12 So there are two Exhibit Os, not to be
13 confused. One is dated March 1st, the
14 other one is dated February 9th.

15 And so if you follow the
16 same line, UTIER grievances, on the high
17 amount, you see for February 9th was the
18 asserted amount. And now the high is 264
19 which is much less than the asserted
20 amount. So what happened there?

21 A So I believe what we were
22 doing here, as it relates to these
23 particular grievance claims, I think it
24 was -- I think for most of these, in
25 fact, for all of these in the earlier

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2 version, other than for the UTIER damages
3 claim, we asserted the -- or we included
4 the asserted amount as a high estimate,
5 only because we continued to evaluate the
6 claims.

7 And so that's why when I
8 think on the most recent one, which is
9 filed on March 1st, Exhibit 4, it's just
10 reflecting what our estimate of the claim
11 would be versus the asserted amount.

12 And, again, I don't know the specific
13 reason why we were using the asserted
14 amount versus what our estimates were
15 between these two items. I don't recall.

16 Q But it's not like UTIER
17 communicated to you that their maximum
18 amount would be 264379?

19 A No.

20 Q So you have your own
21 internal high exposure, regardless of
22 what the claimant is asserting?

23 A Yes. And that's
24 reflected -- that's reflected on
25 Exhibit 4, line 3.

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2 Q And then you proceed to
3 reduce those in your adjusted?

4 A Yes. In this instance, I
5 believe what we did is we took the
6 midpoint for that UTIER grievance claim
7 between the low and the high.

8 Q Why take the midpoint? What
9 was the rationale for that?

10 A Well, the rationale is that
11 we were comfortable with our low
12 estimate. And we think -- if there's --
13 based on our judgment, if we were able to
14 justify a low and looked at estimating
15 what the high is, but because the
16 uncertainties, we would have adjusted
17 that, we would have taken the midpoint
18 there just based on -- just to provide a
19 value or based on our judgment because we
20 didn't think that necessarily -- there
21 were arguments for both the low and the
22 high.

23 Q And, by the way, those
24 grievances are governed by Puerto Rico
25 Law; correct?

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2 MS. STAFFORD: Objection,

3 legal conclusion.

4 Q Do you know?

5 A I don't know the specific --

6 I don't know the answer to that. I would

7 imagine, yes.

8 Q Did you receive advice

9 from --

10 A It's called Diaz & Vazquez,

11 D&V.

12 Q Those guys?

13 A Yes.

14 We -- yes. We -- there was

15 a process.

16 Q And Diaz & Vazquez provided

17 their input into the grievance claims,

18 input on the merits of those claims?

19 A Yes, on the merits of the

20 claims. But that was not only Diaz &

21 Vazquez, the process by which these

22 were -- just stepping back, UTIER

23 provided a proof of claim broken up

24 between No. 2, which was the UTIER

25 damages, and No. 3, the UTIER grievances.

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2 The UTIER grievances, they just had one
3 single claim amount with no supporting
4 values associated. What they did have
5 and what Diaz & Vazquez was asked by
6 PREPA early -- in late 2019 to do was to
7 assist them in evaluating these claims.
8 The support that UTIER provided was
9 50,000 pages of stuff in 28 boxes. And
10 none of those documents had any values.

11 So we coordinated with Diaz
12 & Vazquez to establish a process by which
13 we would be able to build up to what a
14 potential value was of these UTIER
15 claims, these grievance claims.

16 Q Thank you.

17 Still on UTIER, but moving
18 on now to the collective bargaining
19 agreement --

20 A Okay.

21 Q -- you know there's a
22 collective bargaining agreement with
23 UTIER; correct?

24 A I do.

25 Q And has that -- I'll refer

1 MARK SHANKWEILER

2 to it to the CBA. Has that CBA been
3 rejected?

4 A I don't know. I don't know
5 if it's been rejected or not. I don't
6 believe so.

7 Q If I look at your Exhibit O,
8 this one, Exhibit 4, but Exhibit O in
9 Exhibit 4, where would I find rejection
10 damage claims of UTIER arising out of a
11 potential rejection of the CBA?

12 MS. STAFFORD: Objection,
13 foundation.

14 A The way we're approaching
15 the UTIER grievance claim damages is by
16 going through and looking at the
17 individual claims and valuing each,
18 whether the grievance claims that build
19 up to this number. So we don't
20 specifically have contract rejection
21 damage claims incorporated in this
22 number.

23 Q Is there any dollar amount,
24 estimated, at all on Exhibit O in any of
25 the Categories 1 through 12 for CBA

1 MARK SHANKWEILER

2 rejection claims?

3 MS. STAFFORD: Objection,
4 foundation. I think he's already
5 testified there hasn't been a
6 rejection.

7 MR. DESPINS: Okay. Now
8 you're testifying. That's not cool.

9 MS. STAFFORD: I'm just
10 pointing out the foundation issue
11 that I see here.

12 MR. DESPINS: No. You're
13 testifying again.

14 A Could you repeat the
15 question?

16 Q If I'm looking at Exhibit O,
17 which is a page of Exhibit 4 and for this
18 deposition, is there any dollar amount
19 reflected in any of the Categories 1
20 through 12 for damages arising out of a
21 potential rejection of the collective
22 bargaining agreement, the CBA?

23 MS. STAFFORD: Same
24 objection.

25 A So when we developed the

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claim amount that is included in here for line 3, what we did is we came up with average values for each one of the claims. And based on the number of claims that were filed in PREPA's offices by UTIER, we then applied a cushion to that for unknown claims that could arise or other issues that could arise.

So that is part of thinking about what could potentially arise under any contract rejection issues or whatever, any additional claims that could arise. The amounts here are higher than the true extrapolated amount of the claims.

Q So therefore, there is a dollar amount built in under line --

A 3.

Q -- 3 for rejection damage claims?

MS. STAFFORD: Objection, foundation.

A We've provided a cushion for any additional claims that could arise

1 MARK SHANKWEILER

2 that weren't captured through our
3 analysis and just simply extrapolating
4 the average dollar value of the claims
5 that we have had come up with. So for
6 whatever those claims, whether it would
7 be a contract rejection, whether it would
8 be anything, there's cushion in there to
9 take that into account.

10 Q What's that cushion,
11 ballpark again? I'm not going to hold
12 you to a specific dollar. But give me an
13 order of magnitude of your cushion.

14 MS. STAFFORD: Objection.

15 A So we came up with a range,
16 a low range and a high range. And then
17 we applied a 50 percent cushion on top of
18 that. So it was -- it was, again, based
19 on where we are or where I should say
20 that Diaz & Vazquez and PREPA is in their
21 review of these claims because there are
22 well over 10,000 individual cases that
23 are being reviewed. And based on where
24 we are in that review, we want to provide
25 enough of a cushion to the extent that

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2 something will come up and we would need
3 to increase that amount.

4 Q Switching gears to other
5 things, you're familiar with the term
6 current expenses? Does that ring a bell?

7 A Yes.

8 Q And what's your
9 understanding of what that means in this
10 context?

11 MS. STAFFORD: Objection,
12 form, legal conclusion.

13 A So my understanding -- my
14 understanding of the term current expense
15 is -- well, again, it's a legal term.
16 It's included in the -- I know it's
17 included in the 1974 indenture. And it
18 dictates what expenses should be paid
19 prior to the bonds getting payments is my
20 understanding. But that's all I
21 really -- I don't know what it means from
22 a legal perspective, other than just
23 generally what it means.

24 Q Understood.

25 Have you and your team

1 MARK SHANKWEILER

2 performed any work with respect to
3 determining which expense would be
4 considered current expenses?

5 A We have not done any work to
6 determine which expense would be
7 considered a current expense, no.

8 Q Are you aware that PREPA has
9 paid, post-bankruptcy, millions of
10 dollars to pre-petition creditors of
11 PREPA?

12 A I am.

13 Q And do you know the
14 approximate amount involved in here,
15 ballpark again?

16 A I believe currently, it's
17 above 500 million, \$550 million, maybe a
18 little higher, maybe 600. I don't recall
19 specifically.

20 Q And have you conducted any
21 work with respect to those payments?

22 MS. STAFFORD: And I just
23 want to object to the extent this is
24 outside the scope of his 30(b)(6)
25 testimony. If he knows anything

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2 personally, he can obviously answer.

3 Q Go ahead.

4 A Could you repeat the
5 question?

6 Q And have you conducted any
7 work with respect to those payments? And
8 the payments I'm referring to are the
9 payments made by PREPA, post-bankruptcy,
10 on account of pre-bankruptcy claims.

11 MS. STAFFORD: Same
12 objection.

13 A Yes.

14 Q And tell me what -- in what
15 context.

16 A In the context of reviewing
17 a proof of claim that was actually filed
18 when we got to -- when we were retained
19 by the FOMB to start the claims
20 reconciliation process, it was
21 approximately a year -- it was
22 approximately two years after the filing.
23 And it was approximately one year after
24 the bar date for filing proofs of claim.

25 And when we understood that

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2 there were payments that were made on
3 behalf of the pre-petition -- on account
4 of pre-petition invoices, we obtained
5 information from PREPA to determine
6 whether or not the proofs of claim
7 included invoices that might have been
8 paid.

9 Q So if they're satisfied,
10 then you wouldn't pay twice?

11 A That's the basis for some of
12 the objections that we had filed as
13 having been satisfied.

14 MR. DESPINS: Why don't we
15 take this time, like a five-minute
16 break, because I think we're probably
17 done.

18 MS. STAFFORD: Great.

19 MR. DESPINS: But I just
20 want to confirm that. So people can
21 stay put. Really, it's going to be
22 no more than three or four minutes.

23 THE VIDEOGRAPHER: Off the
24 record at 11:31.

25 (A short recess was taken.)

1 MARK SHANKWEILER

2 THE VIDEOGRAPHER: We are on
3 the record at 11:41. Please proceed.

4 MR. DESPINS: We have no
5 further questions. Thank you very
6 much for your time, Mr. Shankweiler.

7 THE WITNESS: Thank you.

8 MS. STAFFORD: Before we go
9 off the record, does anyone else have
10 questions on the phone or in the
11 room?

12 MR. KELLY: I'll be asking a
13 few questions. And I think Jane
14 Tomic from Kramer Levin will have
15 some questions too.

16 MS. TOMIC: Yes.

17 THE VIDEOGRAPHER: Off the
18 record at 11:41.

19 (A short recess was taken.)

20 THE VIDEOGRAPHER: We are on
21 the record at 11:42. Please proceed.

22 EXAMINATION BY

23 MR. KELLY:

24 Q Good morning, Mr.
25 Shankweiler. My name is Cameron Kelly.

1 MARK SHANKWEILER

2 I'm with Quinn Emanuel. We represent
3 Syncora Guarantee Incorporated.

4 Do you know who Syncora is?

5 A I do.

6 Q They're, as you understand
7 it, a monoline insurer of PREPA bonds?

8 A Correct.

9 Q Now, I know Mr. Despina
10 talked a little bit about your
11 background. But I just wanted to get a
12 little more clarity.

13 So you've been in the
14 restructuring industry since the 1990s?

15 A Since '92.

16 Q How many formal bankruptcies
17 have you been involved in?

18 A I don't know the exact
19 amount. But over the 20 years, probably
20 more -- I can't -- 30, 40, not specific.

21 Q Any as big as Puerto Rico?

22 A Yes.

23 Q And in those big
24 bankruptcies like Puerto Rico, what was
25 your role?

1 MARK SHANKWEILER

2 A It ranged from representing
3 creditors. When I say -- let me rephrase
4 that. As big as Puerto Rico with
5 \$89 billion or \$90 billion of claims. So
6 I was looking at it relative to PREPA
7 with, yeah.

8 Q That's fine.

9 A So our role -- yes. And
10 that would have been -- as an example,
11 EFIH, Energy Futures, our role would have
12 been representing -- I think it was
13 noteholders of secured lenders there. So
14 it ranged from, you know, representing
15 banks to representing noteholders and
16 representing, in certain cases, debtors.

17 Q And do you view your job
18 differently when you're representing a
19 debtor as opposed to a creditor
20 constituency or a bondholder
21 constituency?

22 A I mean there's differences,
23 yes.

24 Q Any that come to mind
25 immediately or an example, perhaps?

1 MARK SHANKWEILER

2 A Well, just as an example --
3 representing an unsecured creditors'
4 committee, as an example, you would be
5 challenging, you know, the analysis that
6 were prepared by the debtors. And so
7 when you're representing the debtors,
8 obviously, you would be an advocate for
9 the debtors' position and doing a lot of
10 the analysis that would be reviewed by
11 somebody on the other side of the table.

12 Q So is it fair to say when
13 you're representing creditors, you look
14 at whatever the debtors' estimates of
15 claims are with some skepticism?

16 A Yes.

17 Q Do you take that into mind
18 when you represent the debtors, that
19 level of skepticism?

20 MS. STAFFORD: Objection,
21 form.

22 A I think -- could you
23 rephrase that question again?

24 Q Yes.

25 So if you're retained by a

1 MARK SHANKWEILER

2 debtor to evaluate claims against their
3 estate, do you take with you in that
4 evaluation, the same level of skepticism
5 of claims that you would when you're
6 representing creditors?

7 A So it's -- it's a little bit
8 different because what you're trying to
9 do when we're representing the debtors,
10 we want to make sure that we can justify
11 the claims that have been asserted to
12 ensure that they're actually correctly
13 recorded and captured and to do that
14 reconciliation to ensure that ultimately,
15 the claims that have been asserted
16 against the debtors are valid claims.

17 So that's a little bit
18 different because from the creditors'
19 side, you would say, well, what have you
20 done in order to evaluate, so that we're
21 comfortable with the work that you've
22 done. And we would have access on --
23 when we're representing creditors, to
24 proofs of claim, et cetera, that would
25 have been filed in the case. So there's

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2 a differentiation.

3 Q Okay. Fair enough.

4 Now, Mr. Despins touched on
5 this a little bit.

6 The total asserted value
7 currently of unsecured claims against
8 PREPA is about 6 billion, 5.9 billion.
9 Do you recall that?

10 A The total value of the
11 general unsecured claims?

12 Q Yes, of the general asserted
13 unsecured claims.

14 A Yes.

15 Q You mentioned earlier that
16 BRG had gotten through about 60 percent
17 of the claims asserted against PREPA or
18 evaluated about 60 percent of them?

19 MS. STAFFORD: Objection,
20 mischaracterizes testimony.

21 A I don't believe that that
22 was my testimony. I think what I had
23 said -- I may have said -- I think
24 that's -- you know, to the extent that
25 we've come to a conclusion on all of the

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2 claims, that's probably what I alluded
3 to.

4 Q So just to clarify, you've
5 come to a conclusion about -- on about
6 60 percent of the claims?

7 MS. STAFFORD: Same
8 objection.

9 A I think that's what I said.
10 If I think about it a little bit more, I
11 might want to refine that to a higher
12 amount.

13 Q That's fine.

14 But you also mentioned that
15 BRG in conjunction with other advisors
16 and the debtor have looked at every
17 claim; right?

18 A Yes.

19 Q And at least assessed an
20 initial value?

21 A Yes.

22 Q Now, when we were talking
23 about the 60 percent number or higher, if
24 you want to revise it, you said that
25 there was still some big claims

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2 outstanding?

3 A Yes.

4 Q Do you have any sense of
5 what those bigger claims that are
6 outstanding are?

7 A Yes.

8 Q What are they, by type of
9 claim and amount?

10 A So if I could refer to an
11 exhibit.

12 Q Yes, of course.

13 MR. KELLY: I'll just go
14 ahead and use the UCC's exhibit
15 because they're already there.

16 Q I believe they're Exhibit --

17 A 4.

18 Q -- 4. That's right.

19 Exhibit 4.

20 The table on page 3.

21 A Yes.

22 So could you repeat the
23 question so I'm answering correctly?

24 Q Yes.

25 You said that you hadn't

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2 come to a final determination on some of
3 the larger claims. And I asked if you
4 had any sense of what types of claims
5 those are and what their amounts were.

6 MS. STAFFORD: Objection,
7 mischaracterizes the testimony.

8 A So the claims that I know
9 that are still in the process of being
10 resolved, they're either objection or
11 reconciliation, would be the PPOA claim
12 category, the UTIER grievance claim
13 category and the UTICE litigation and
14 some of the litigation claims as far as
15 the larger components. There's still
16 other -- the reconciliation process is
17 still ongoing with certain of the other
18 categories of claims which are not moving
19 the needle here with regard to the
20 adjusted estimated value.

21 Q And by not moving the
22 needle, do you just mean they're smaller
23 in amount?

24 A Smaller in amount, more
25 voluminous and smaller in amount.

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2 Q If you could aggregate the
3 kind of -- if you had to aggregate the
4 value of those outstanding claims, what
5 would it be?

6 A When you say outstanding
7 claims, what do you mean?

8 Q The PPOA, the UTIER
9 grievance, the UTICE, the litigation
10 claims and those claims that aren't
11 moving the needle all together.

12 MS. STAFFORD: Objection,
13 form.

14 A So the value, are we talking
15 about the asserted amount?

16 Q The asserted value.

17 A The asserted value would be,
18 you know, close to \$5 billion, I would
19 imagine just scanning this.

20 Q Now, earlier, Mr. Despins
21 and you talked a little about the
22 adjusted estimated value. That's the
23 middle column on Exhibit 4.

24 A Yes.

25 Q Now, at various points, you

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2 referred to the adjusted estimated value
3 as a midpoint; is that fair?

4 A That's fair.

5 Q But it's not a midpoint; is
6 that right?

7 A It is not.

8 Q So could you define what it
9 is a little more precisely, maybe? I
10 know it has changed, or its effect has
11 changed in some of the categories. But
12 how would you define it?

13 MS. STAFFORD: Objection,
14 form.

15 A How would I define what?

16 Q The adjusted estimated
17 value.

18 A So the adjusted estimated
19 value is our best view of what the claims
20 amount would ultimately be allowed or
21 ultimately, you know, be allowed in the
22 bankruptcy by the court to come up with
23 what the general pool of unsecured claims
24 would be based on our analysis of the
25 individual categories of claims.

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2 Q And what goes into that
3 view, the view of what would be allowed?

4 A It's a number of things. It
5 would be -- it would be -- it would
6 include our views as -- which are
7 informed by our discussions, our views,
8 which are informed by our analysis of the
9 proofs of claim, our views as it relates
10 to our analysis of the underlying
11 components of a lot of the claims that
12 were provided, our reconciliation of
13 claims, our objections to the claims that
14 were actually filed, our view of what
15 the -- or our understanding of what the
16 settlement amounts are -- have been
17 derived based on transferring certain
18 claims to ADR process as an example and
19 reviewing the litigation claims and
20 understanding what the risk assessed
21 value of those might be, to the extent
22 they might have been transferred to ADR.
23 So those types of things.

24 Q So is it fair to say that it
25 changes, depending on the type of claim

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2 you're looking at?

3 A Yes. I think that's fair,
4 depending on -- even within each
5 category; could be different.

6 Q And just clarifying for the
7 record, it being the adjusted estimated
8 value or how the adjusted estimated value
9 is determined?

10 A Yes.

11 Q Now, how does the adjusted
12 estimated value differ from the estimated
13 low value?

14 A So in certain circumstances,
15 it doesn't. And the adjusted estimated
16 value -- as an example, if we're taking a
17 look at the PPOA claim, we go through and
18 build what our low value of the claim is
19 based on, reviewing each one of the PPOA
20 claims and coming up with a value and
21 then as far as coming up with an adjusted
22 estimate, we know what the high claim
23 would be, we've developed what the low
24 estimate of that particular claim would
25 be.

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2 And in this particular case,
3 we took the midpoint to -- to take -- to
4 provide a cushion to allow for any
5 uncertainties or any additional claims
6 that could arise because there are
7 uncertainties with the result -- there
8 are uncertainties related to the ultimate
9 disposition of a particular claim. So
10 that's what we did in this particular
11 instance. Does that make sense?

12 Q Yes.

13 A Okay.

14 Q I just want to drill down a
15 little bit more on the specific
16 difference between what the low estimate
17 is and what the adjusted estimated value
18 is.

19 So are you removing
20 uncertainties, the uncertainties that you
21 mentioned when you're figuring out what
22 the low estimate is?

23 MS. STAFFORD: Objection,
24 form.

25 A So when we're coming up with

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a low estimate, our estimates are based on advice from discussions with either PREPA, our review of the individual proof of claim, the advice of Proskauer or from Diaz & Vazquez as it relates to the legal nature of the -- or the viability -- not the viability, but the ability to assert the claim. So that's what we would look at in coming up with a low estimate.

So that's what we believe is the appropriate value of a claim, taking into account those things. But we know that the asserted amount is oftentimes much higher. And to the extent that there is uncertainties with regard to what the ultimate outcome would be if this were to move into -- or to be resolved via litigation, that's the type of modifications that we were made to come up with an adjusted estimated value is. So it's really to provide some cushion about what our low estimate would be to ensure that there's sufficient cushion in estimating what the general

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2 unsecured claims would be.

3 Q So would it be fair to say
4 that the low estimate reflects a value in
5 which there are no uncertainties about
6 the validity or invalidity of a claim
7 based on the assumptions that PREPA's
8 other advisors have given you?

9 MS. STAFFORD: Objection,
10 form.

11 A I think it would reflect
12 what -- a collective view in the more
13 complex proofs of claims, what the
14 expected amount of a defensible low value
15 would be.

16 Q And then on the other end of
17 the spectrum, the high estimated value --

18 A Right.

19 Q -- how does that differ from
20 the adjusted estimated value?

21 A So the high estimated value,
22 certain -- would represent -- could
23 represent, to the extent that we have
24 received a proof of claim that asserts a
25 certain value, or if we would receive

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2 information from PREPA that calculated a
3 particular claim or a group of claims
4 that upon our review, we felt was not
5 necessarily appropriate or we felt that
6 it was either duplicative or included
7 certain claims that based on our
8 discussions with counsel were not
9 necessarily valid. So those would
10 include those types of claims. So we
11 would adjust down from the estimated high
12 value based on those types of carve-outs
13 that we would have.

14 Q I want to talk about the
15 PPOA claims a little bit more.

16 A Sure.

17 Q Now, you and Mr. Despins
18 discussed that the claims kind of fall
19 into two categories: Claims for lost
20 profits and claims for developmental
21 costs; is that fair?

22 A There were three categories.
23 They also include claims for damages.

24 Q Okay.

25 Now, I think that you said

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2 that you discussed whether claims for
3 lost profits would be valid under the
4 PPOAs with D&V?

5 A As well as with Proskauer.

6 Q Did you undertake a similar
7 assessment process with respect to the
8 developmental cost?

9 A So for the developmental
10 costs, we looked at -- yes is the answer.
11 We underwent a similar process.

12 Q And how did you assess the
13 validity of claims for developmental
14 costs?

15 A So the first thing that we
16 did is -- well, one of the things that we
17 did, not the first thing, we reviewed the
18 proof of claim. We identified what they
19 had asserted as development costs. We
20 had specific conversations with the
21 project management office, with folks,
22 with employees of PREPA and/or LUMA who
23 were actually involved in the process.
24 And we -- we tried to get -- we got a
25 sense for what the nature of the project

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2 was, where it was in its development.

3 But at the end of the day,
4 the development costs are not necessarily
5 something that PREPA would have a view on
6 because those development costs are
7 oftentimes captured in the revenues that
8 they would ultimately earn once they get
9 to a completed PPOA.

10 Q What do you mean PREPA
11 wouldn't have a view on them?

12 A Oftentimes, they don't --
13 well, they would have a view. They don't
14 have any support in their offices to
15 support the claims, the development
16 portion of their claim.

17 Q PREPA wouldn't have
18 documents or --

19 A PREPA has not invoiced for
20 these development costs. So that's --
21 that's part of the process.

22 Q Would that mean that there's
23 not a basis to object to those claims,
24 the developmental cost claims?

25 MS. STAFFORD: Objection,

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2 legal conclusion.

3 A No. That doesn't mean that
4 there is a basis not to object to certain
5 development cost claims.

6 Q What does it mean if PREPA
7 doesn't -- isn't invoiced for these
8 developmental costs? What does that mean
9 for the claim estimation process?

10 A For the claim estimation
11 process,, it means that -- it means that
12 the -- what we're doing as it relates to
13 the development costs itself is we're not
14 adjusting those, at least initially, in
15 coming up with what our estimated value
16 would be based on -- based on the results
17 of an arbitration that we understand
18 relates to a PPOA where they had actually
19 allowed development costs or they had --
20 they hadn't adjusted -- the arbitration
21 panel hadn't adjusted down the
22 development costs.

23 So when it comes to the
24 actual reconciliation of the development
25 costs, it still needs to be reconciled.

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2 But for purposes of coming up with an
3 adjusted estimated value, the process
4 would have to be to essentially validate
5 and get additional information from those
6 claimants to substantiate. While they
7 include those in the proof of claim, they
8 haven't been necessarily validated by
9 PREPA.

10 Q So are some of the
11 development costs -- let me rephrase
12 that.

13 Is the value of some of the
14 development cost claims subject to
15 arbitrations that are ongoing?

16 A Could you repeat that?

17 Q Is the value of some of the
18 development cost claims subject to
19 arbitrations that are ongoing?

20 A I'm not aware of any
21 arbitrations that are currently ongoing.

22 Q Now, you said you needed
23 additional information for the estimation
24 process for these developmental costs.

25 What type of additional

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2 information?

3 A The way we identified the
4 development costs are just based on lists
5 that they have in the proof of claim or
6 what they had designated which really
7 doesn't have any support. So the types
8 of support that you would expect to get
9 at that point would be invoices. It
10 would be hours worked. It would be
11 essentially the detail that supports
12 those development costs and whether or
13 not -- and we would have to -- we would
14 have to work with PREPA and/or LUMA's
15 office to make sure that those are in
16 line with what their understanding is.

17 Q Now, just going to line 1 on
18 Depo Exhibit 4, the asserted PPOA claim
19 is -- it's about 2.8 billion; correct?

20 A Yes.

21 Q How much of that 2.8 billion
22 is attributable to development costs?

23 A I'd have to review it. But
24 it's not substantial. It could be -- it
25 could be maybe \$100 million, is my

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2 recollection if I go back. And there was
3 one -- there was one claim that asserted
4 close to -- I would say it's close to
5 \$85 million in development costs. But
6 those were really development fee costs.
7 So that's -- that's probably around
8 between, you know, around, give or take,
9 10 million. It's maybe \$100 million. I
10 think so.

11 Q So less than 10 percent?

12 A I'd say that \$100 million is
13 less. But that's based on my
14 recollection. I'm trying to remember
15 what it truly was.

16 Q In terms of a percentage,
17 how far along in the process of
18 reconciling all the development cost
19 claims are you?

20 A So because there are no
21 records at PREPA as it relates to these
22 costs, we can't reconcile those to the
23 company's books and records.

24 Q Now, I want to talk about
25 the UTIER claim just a little bit more.

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2 When you were first
3 assessing the claim, you determined that
4 there was insufficient documentation to
5 support the claim?

6 A Yes.

7 Q Was that a determination
8 that BRG made, that there was
9 insufficient documentation?

10 A I think it was everyone's
11 assessment that there was insufficient
12 documentation. So that was not solely
13 BRG. That was Diaz & Vazquez, it was
14 Proskauer, it was PREPA.

15 Q And we talked a little bit
16 about this earlier.

17 But documentation was
18 eventually provided; right?

19 A Documentation was provided.

20 Q But that documentation
21 didn't provide much information in terms
22 of value of the claim; right?

23 A Correct. No value was
24 ascribed to any of the -- or to, you
25 know -- it may have it, but the vast

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2 majority, 99 percent, my understanding is
3 zero value was ascribed to the support
4 that had been provided by UTIER.

5 Q How did you go about putting
6 a value on these claims without that
7 support?

8 A So, again, the process by
9 which a grievance claim is filed, my
10 understanding, based on discussions with
11 PREPA's labor relations and arbitration
12 office, is that UTIER claims that are
13 filed, grievance claims that are filed
14 never come with value, any value
15 ascribed. It's the responsibility of
16 PREPA's arbitration office, essentially,
17 to review the claim and review their
18 records to come up with what the value of
19 that claim is, what the value of that
20 particular grievance claim would be. And
21 that could include looking at employee
22 records, you know, whatever the claim is.
23 It's looking at whatever records they
24 have in their systems to substantiate the
25 value of that grievance claim and come to

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2 a settlement with regard to the value of
3 that claim with UTIER.

4 So the value that we have
5 here represents a detailed analysis by
6 PREPA's employees who had been involved
7 with -- in the arbitration office for the
8 past two decades and going through that
9 process of assigning a specific value to
10 a claim that was provided to PREPA's
11 arbitration office and coming up with
12 that value based on the information that
13 was available to PREPA.

14 Q Do you have an understanding
15 of how PREPA's labor relations office
16 came up with values for these claims
17 based on the documents that they had?

18 A I have an overall
19 understanding.

20 Q What is that understanding?

21 A Again, to the extent that
22 they would have, as an example, a salary
23 or a vacation, a claim for lost vacation,
24 they would be able to go through and
25 determine what the hours or what the

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2 salary level would be, determine whether
3 or not that employee took the vacations,
4 they would go through the HR records in
5 order to come up with a value of that.
6 And they would -- that's the way they
7 came up with the value for a particular
8 claim.

9 To the extent that it was
10 for, you know, overtime work, it would be
11 a similar sort of -- a similar sort of
12 process. The company would go out and
13 look at what the claim was, go into the
14 records and determine whether or not the
15 grievance claim was a valid grievance
16 claim and be able to answer UTIER with
17 regard to whether or not it was a valid
18 UTIER claim. So that's an example.

19 Q Now, some of these claims,
20 for instance, unpaid overtime or I think
21 there's mention in the disclosure
22 statement of unpaid Christmas bonuses,
23 calculating these claims sounds
24 mechanical; is that a fair term?

25 A I think that's a fair term,

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2 yes.

3 Q Are any of the grievance
4 claims less mechanical to calculate?

5 A Yes.

6 Q Do you have any examples of
7 what those claims would be?

8 A So yes. It's oftentimes
9 what they call an outsourcing claim or a
10 proper unit invasion claim, whereby an
11 UTIER member might be able to assert a
12 claim because PREPA retained in an
13 emergency situation somebody to come in
14 and fix a transformer that blew up, or
15 they could have had somebody who didn't
16 have necessarily -- if they needed to
17 have services performed by an outside
18 third-party, if they didn't feel that
19 the -- or they didn't have the right
20 PREPA -- or UTIER employees to perform
21 that particular service.

22 So in that instance, they
23 would have to determine whether or not
24 that service is actually performed and my
25 understanding is then go and look at the

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2 associated records, what they were
3 actually paid to that third-party. And
4 that involved not -- it involved numerous
5 departments within PREPA to come up with
6 what estimate would be. So that's an
7 example of it's not just a mechanical,
8 this is what we paid you, this is what we
9 should have paid you pursuant to a
10 particular formula.

11 Q So those claims would be
12 estimated by PREPA -- and I guess I'll
13 term it -- a collaborative process where
14 the labor relations office would talk to
15 different departments of PREPA to
16 determine how much one of the UTIER
17 employees would have been paid for doing
18 a job that was outsourced? Am I getting
19 that right?

20 A So internally, it was a
21 collaborative process, oftentimes between
22 legal, between distribution, between the
23 finance department.

24 And in order to come up with
25 what a potential value of what a

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2 potential particular claim would be,
3 that's what the arbitration would have to
4 do, is they would have to go out and
5 gather the information to come up with
6 what an assessed value of what a
7 particular grievance claim would be.

8 Q And now at BRG, you would
9 rely on that value in estimating a value
10 for the grievance claim; is that right?

11 A So ultimately, yes. That's
12 the ultimate answer. We would have to
13 rely on the employees of PREPA who had
14 been involved in doing this over the past
15 two decades and had the experience of
16 that in coming up with a particular value
17 of what that grievance came would be,
18 yes.

19 Q Would BRG or another PREPA
20 advisor perform any sort of independent
21 assessment of that value?

22 A Yes.

23 Q How would they perform an
24 independent assessment?

25 A So Diaz & Vazquez was

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intricately involved in the process. And so they were assisting PREPA employees in just not necessarily capturing the actual dollar values of those large or more complex ones, but they were on the ground in San Juan in PREPA's offices a day or two, a week, whatever, and they would review the process by which PREPA went through. I'm not sure if it was everyone, but they provided -- they provided oversight because as I may have mentioned earlier, PREPA did retain or as part of the retention of Diaz & Vazquez, that was part of their charge, to help resolve the UTIER claims.

So there was -- I know that Diaz & Vazquez employees did go through, evaluate the claims that were provided, make sure that they agreed with the CBA provisions, that they were valid claims under the CBA provisions. So it was a concern. It was a collaborative approach to come up with what these claims should be and the value of these claims should

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2 be.

3 Q Just going back to
4 Exhibit 4, the estimate table, the
5 estimated high value there is about
6 264 million?

7 A Yes.

8 Q What sort of uncertainties
9 is I think the word you've been using,
10 went into the high value of the grievance
11 claim?

12 A So the grievance claims,
13 this actually represents -- there's
14 various components of the UTIER grievance
15 claims. And what I was talking about was
16 only one -- I guess one section or one
17 group of the claims that Diaz & Vazquez
18 and PREPA was involved in evaluating.
19 There's another group of claims for the
20 UTIER group, which were essentially
21 developed by third-parties or by PREPA's
22 financial group, more the -- more what
23 you call the mechanical sort of -- the
24 mechanical sort of calculation of A minus
25 B equals C. So the high value here

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2 includes certain claims or components of
3 claims that were -- well, let me step
4 back.

5 So the third-party claims or
6 the claims that were developed by PREPA,
7 which were the less complex ones, include
8 vacation license claims. They include
9 reemployment claims. They include what
10 we call the Christmas bonus claims and
11 what they call Hiato, those types of
12 claims. And each one of those claims was
13 developed by either a third-party in the
14 case of the vacation license claims
15 and/or PREPA. And the claims that they
16 developed were necessary for purposes of
17 disclosure purposes for the financial
18 reporting purposes in their audited
19 financial statements. And so we -- part
20 of this \$264 million represents the
21 analysis that were performed by the
22 non-arbitration portion of PREPA, as well
23 as third-parties who were involved in
24 estimating these claims for financial
25 reporting purposes.

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2 Q When you say there were
3 third-parties involved, you gave the
4 example of the vacation license claims?

5 A Yes.

6 Q Are you referring to Diaz &
7 Vazquez?

8 A No.

9 Q Or some other third-party?

10 A No. It would be another
11 third-party.

12 Q Could you give an example of
13 who that third-party would be?

14 A I believe it was Ankura. I
15 think they're the ones who did the
16 vacation license analysis.

17 Q So another PREPA advisor
18 professional?

19 A I believe they were
20 retained, yes, by PREPA.

21 Q I'd like to talk about the
22 UTICE litigation claim, if I could.

23 A Sure.

24 Q Now, that claim, there's an
25 asserted value of 225 million?

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2 A Yes.

3 Q Now, UTICE has a judgment
4 against PREPA already; is that right?

5 A I don't know how to legally
6 define it. But my understanding is that
7 an arbitration -- whether it was an
8 arbitration panel or a court, had found
9 that PREPA should have instructed
10 UTICE -- the UTICE union that it was
11 changing their health plan and secured
12 their approval and that because they
13 didn't secure the approval, it resulted
14 in a foot fault on the CBA. And that's
15 what gave rise to the
16 \$224.9 million claim.

17 Q That 224.9 million dollars,
18 PREPA has not been ordered to pay that to
19 UTICE, have they?

20 A No; in fact, my
21 understanding of the arbitration is that
22 PREPA was responsible for paying the
23 difference between what the UTICE member
24 otherwise would have paid under the old
25 plan and had to pay under the new manner.

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2 Q I think the disclosure
3 statement refers to that as compensating
4 the employees for a loss of benefits.
5 Does that sound familiar?

6 A Yes.

7 Q PREPA's position is that
8 this claim should be worth zero. Does
9 that sound right?

10 MS. STAFFORD: Objection,
11 form.

12 A I think that -- I don't know
13 the answer to when you say PREPA.

14 Q If we could just go back to
15 Exhibit 4, the UTICE litigation is on
16 line 5, estimated low value is zero.

17 A Yes.

18 Q What went into that
19 estimation?

20 (Zoom distraction).

21 Q What went into that
22 estimation, that estimation referring to
23 Exhibit 4, line 5, estimated low value of
24 zero?

25 A So it was really, again,

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based on our review, what we had attempted to do is we did reach out to UTICE to say, hey, listen, you know, there's no way that we can at PREPA evaluate what the lost benefits or what you might have paid related to the certain health care benefits that you otherwise would have received, without having some sort of support from the actual UTICE members. And without that support since nobody provided any support, we ascribed a value of zero on the low side.

Q And then on the high side of line 5, it's the full value of the asserted claim, 224.9 million?

A Yup.

Q How do you get to that as being the high value?

A I think we just included as an estimate of what the high value would be because it was asserted.

Q Do you have any sense of the likelihood that that claim will

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2 ultimately be allowed in that amount,
3 224.9 million?

4 A Well, I'm not an attorney.
5 But if I had to put my money on it, I
6 would bet that it would not be ever
7 allowed, \$225 million, because there's no
8 basis for that claim. And at that value
9 was really essentially -- it was
10 essentially --

11 (Zoom distraction)

12 A Could you start back again?

13 Q Yes.

14 The last question was, do
15 you have any sense of the likelihood that
16 the claim will ultimately be allowed in
17 that amount, 224.9 million?

18 A Yeah. And I think my answer
19 was that based on the support that they
20 provided for that claim, I think it would
21 be highly unlikely. But I'm not an
22 attorney. So I don't have a legal view
23 of that.

24 And I think what I was
25 saying that if you go to the actual proof

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2 of claim, this claim essentially
3 represents the savings that PREPA enjoyed
4 when they switched from one plan to
5 another plan. So that's the -- my
6 personal opinion.

7 Q And I think before the
8 distraction, you said that there's no
9 basis for that claim being 2 --
10 approximately \$225 million?

11 A Well, there is a basis. But
12 whether it's a valid basis or not, we
13 would argue that there is no -- that
14 amount is not -- it's not a valid basis
15 for a claim against PREPA.

16 Q The adjusted estimated value
17 that you came up with is \$11.2 million?

18 A Yes.

19 Q What went into that
20 \$11.2 million estimation?

21 A So what we did is we worked
22 with PREPA and their advisors to get
23 support, any support that might be
24 available to come up with what a
25 potential claim might be. One of

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those -- one of the obvious questions, well, how many UTICE employees were there in the 2008, 2009 time frame? And the answer was that there were about 500 employees. And we then, based on the information that had been provided to us, evaluate the changes in the plan and understand the potential magnitude. Just based on without looking at numbers, because we didn't have any numbers to look at, but we did have a comparison of the -- of the health benefit provisions or components, we then decided to, well, if there is -- if there are claims that could potentially come in from all 500 of these employees, what would that amount -- what would be a reasonable amount to include in the plan as a potential cushion for these types of claims.

So we looked at I think the \$11 million here that's included is -- translates into about 22 or \$23,000 per employee or per UTICE member. And so we

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2 felt that that was, you know, sufficient
3 cushion to provide for any claim amount
4 that might arise from any UTICE member
5 who would assert this.

6 But, again, when we asked
7 for specifics and for support for the
8 \$224.9 million claim or any claim, they
9 didn't provide any estimates. So that's
10 what we did to make sure that we had a
11 cushion.

12 Q I want to talk about the
13 PREPA employee claims.

14 A Yes.

15 Q On Exhibit 4, that's line 6
16 with the asserted value of
17 14.834 million.

18 A Yes.

19 Q Now, what kind of claims are
20 these?

21 A There's a bunch of different
22 categories of claims that are included in
23 this number. Among other things, it
24 would be managerial sort of complaints.
25 It would include certain Christmas

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2 bonuses. It would include vacation
3 license type of claims. It would include
4 promotional sort of issues. Those are
5 the types of claims that are included.

6 Q Are these claims duplicative
7 of the UTICE claims?

8 A We did an analysis to see if
9 there were any duplicative claims. We
10 didn't identify any duplicative claims or
11 maybe 50, less than 50. And I think we
12 would have at least identified those for
13 objection, if we haven't objected to
14 them. But, again, it's very few.

15 Q What percentage of the total
16 amount of employee claims would that 50
17 be?

18 A I think it would be less
19 than 1 percent.

20 Q The adjusted estimated value
21 of these employee claims is, it's about
22 \$9 million, a little less than
23 \$9 million; is that right?

24 A Yes.

25 Q How did you get to

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2 estimating these claims at \$9 million?

3 A In this instance, it looks
4 as though due to uncertainties with
5 ultimately how some of these claims might
6 be resolved, we -- looks like we took a
7 midpoint between the low and the high
8 estimates.

9 Q What went into ascribing
10 value to these claims?

11 MS. STAFFORD: Objection,
12 form.

13 A So on the low end of the --
14 on the low end of the -- on the estimated
15 low value, we would have included what
16 the asserted amount of particular claims
17 are for a small subset of the total -- of
18 all the employee categories that are up
19 at the 14.8 million. And the analysis --
20 those claims are really based on what
21 their -- for any claims that have been
22 asserted, which we haven't identified for
23 objection, which employee claims could be
24 objected to for certain reasons such as
25 if there's Puerto Rican laws that would

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2 prohibit the payment of certain vacation
3 licenses or Christmas bonuses or things
4 like that.

5 So when we looked at the
6 actual claims, at least for the low
7 amount here, the \$2.5 million, is we're
8 including the asserted amount until
9 further analysis can be done by the HR
10 department to determine whether that's
11 actually going to be a valid claim. But
12 that's the general nature of that. And
13 it's pretty -- doesn't really impact the
14 overall bucket of claim value in any
15 event.

16 Q I'd like to switch topics
17 just a little bit.

18 I'd like to discuss the
19 inverse condemnation and eminent domain
20 claims that the plan provides for. Are
21 you familiar with that estimation?

22 A I am.

23 Q Now, the disclosure
24 statement lists the estimated allowed
25 claim at \$2.4 million.

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2 A Okay.

3 Q Does that sound right?

4 A I believe that was included
5 in the section of the claims estimation
6 and the disclosure statement. It sounds
7 about right.

8 Q Were you or was BRG involved
9 in that estimation?

10 A Yes.

11 Q How many claims comprise the
12 inverse condemnation, eminent domain
13 class of claims?

14 A So the actual proofs of
15 claims that were filed that were
16 categorized as expropriation and inverse
17 condemnation claims were approximately 20
18 claims.

19 Q What was the aggregate
20 asserted value of those claims, ballpark?

21 A I think that would be about
22 the \$20 million.

23 Q So how was the
24 \$2.4 million number reached?

25 A So when we started our

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analysis of these expropriation claims, we worked with Diaz & Vazquez to get insights as to the types of -- what the claims are, what they're comprised of and what the -- again, what are the components of the claim, what Puerto Rico Law would really view as a valid expropriation claim and trying to understand how to come up with a true value of what these claims might be.

Q Similar to the general unsecured claims, did you come up with an estimated low value and an estimated high value?

A I think what we did here is we worked with Diaz & Vazquez, again to understand the components of the claim as an example. Certain of the claims can be divided into, let's call it, true takings claim and then damages associated with the takings claim. In certain circumstances, the claims themselves were what I'll call -- this is a term I learned -- was extrajudicial claims which

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means that they weren't filed in the expropriation court. So the low value here, based on -- based on our work with Diaz & Vazquez, based on there looking at the actual files and identifying whether or not that was a true takings claim, they -- that's how we came up with what the -- that \$2 million value was at the time that we were evaluating that, what we had isolated in those claims, in the documents that Diaz & Vazquez looked at for us. That's what the true taking claim portion was.

Then for the other claims or for up to the \$20 million, that would have been claims that were asserted in their proof of claim that weren't necessarily substantiated through a true taking claim and were subject to dispute.

Q The plan also provides for the payment of federal claims?

A It does.

Q Was BRG involved in estimating the amount of federal claims

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2 asserted against PREPA?

3 A BRG was involved in
4 evaluating the claims and speaking with
5 attorneys who are involved in reviewing
6 those claims and potentially litigating,
7 disputing those claims.

8 Q Do you know what the
9 aggregate total asserted amount of
10 federal claims against PREPA is?

11 A If I can refer to this, I
12 believe it was -- where is it? I think
13 it's around 16 million. I've just got to
14 look at it. Oh. It's not here because
15 it's not a general unsecured claim. My
16 recollection, if we go to the disclosure
17 statement, I think it was around 16 to
18 \$17 million, is my recollection.

19 Q And in the disclosure
20 statement, I'll just represent that the
21 estimated allowed claim is \$16.8 million.

22 A Very close.

23 Q Now, what types of claims
24 are in the federal claims class?

25 A So these are three proofs of

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2 claim that were filed by the IRS. And
3 the IRS filed these claims related to
4 certain payments that they made on
5 certain bond series that they were
6 responsible for paying a portion of the
7 interest. And I think it was Build
8 America bonds or something like that. I
9 can't remember the specific name of it.
10 But it represents payments that were made
11 by the IRS associated with certain bond
12 series.

13 Q Are you aware of whether
14 these three proofs of claim by the IRS
15 are entitled to be paid in full?

16 MS. STAFFORD: Objection,
17 legal conclusion.

18 A I don't know the answer to
19 whether or not they're entitled to be
20 paid in full.

21 Q Fair enough.

22 Do you know if any of these
23 federal claims are disputed?

24 A My understanding is that
25 they are disputed, similar to -- just

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2 like the similar claims that have been
3 filed in other Title III entities.

4 Q So the \$16.8 million, that's
5 the estimated allowed claim.

6 Do you anticipate that that
7 is the amount that will ultimately be
8 allowed on account of these federal
9 claims?

10 A I don't know what the
11 ultimate allowed amount will be.

12 Q Are there any uncertainties
13 associated with these federal claims like
14 we have talked about with other classes
15 of claims?

16 A I know what the asserted
17 amount was. I think it's pretty
18 specific. I know that there's a process
19 that is ongoing with -- and I don't
20 recall which law firm it is -- in
21 negotiating with the IRS to resolve this
22 claim.

23 Q Just give me one moment.
24 And hopefully, I'll be almost done soon.

25 Are you aware of who the

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2 fuel line lenders are?

3 A Generally, yes.

4 Q Who are they?

5 A Well, they're a group of
6 claimants who provided loans to PREPA for
7 the purchase of fuel.

8 Q Do you know how they're
9 classified under the proposed plan of
10 adjustment?

11 A I know they're not general
12 unsecured claims. I don't recall whether
13 they're secured claims or priority
14 claims. I just can't recall. So they're
15 either secured or priority, but I know
16 they're not general unsecured claims.

17 Q Do you know why they're not
18 general unsecured claims?

19 MS. STAFFORD: Objection,
20 legal conclusion.

21 A I know that there was a
22 negotiation and a settlement reached. I
23 don't know why specifically, they're not
24 determined to be unsecured claims. But I
25 know that -- well, I believe that they've

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2 always asserted that they were a secured
3 claim.

4 Q Did BRG ever perform an
5 estimation of the fuel line lenders'
6 claims?

7 A I know we looked at the fuel
8 line lenders' claims and looked at what
9 their asserted claim was. But whether we
10 provided an estimation of that or not, I
11 think we looked at it and understand what
12 their claims were. So I think their
13 asserted claims were based on the moneys
14 that they had actually advanced.

15 Q Do you recall if the fuel
16 line lenders' claims was a current
17 expense claim?

18 MS. STAFFORD: Objection,
19 legal conclusion.

20 A I believe they were one of
21 the only claimants that actually asserted
22 a current expense claim, if I remember
23 correctly.

24 MR. KELLY: Can we go off
25 the record?

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2 THE VIDEOGRAPHER: Off the
3 record at 12:54. This marks the end
4 of Media Unit No. 2.

5 (A lunch recess was taken.)

6 THE VIDEOGRAPHER: We are on
7 the record at 13:46. This begins
8 Media Unit No. 3. Please proceed.

9 Q Mr. Shankweiler, before we
10 went off the record for lunch, we were
11 talking a little bit about the fuel line
12 lenders. Do you recall that?

13 A I do.

14 Q I had asked if PREPA or the
15 board or Proskauer had ever asked you to
16 assess the fuel line lenders' claim.

17 A Yes. I recall that
18 question.

19 Q You said that we looked at
20 it and understand what their claims were.

21 What do you mean you looked
22 at the fuel line lenders' claims?

23 A Well, I know that they
24 asserted a claim for approximately
25 \$700 million which my understanding is

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2 the principal amount of it. We looked at
3 the interest. I believe that was
4 included. And so we looked at the
5 documents and were able to confirm the
6 amount or to calculate the amount of the
7 claim that they had asserted based on
8 those documents.

9 Q Were the fuel line lenders'
10 claims included in your estimation of the
11 general unsecured claims asserted against
12 PREPA?

13 A I don't recall if they were
14 specifically included in general
15 unsecured claims. I don't recall. I
16 just know that they're not there now. So
17 they may have been at one time. But I
18 don't recall.

19 Q Were the fuel line lenders'
20 claims ever included in a draft of
21 Deposition Exhibit 4 that's Exhibit O to
22 the disclosure statement?

23 A I don't recall.

24 Q Now, before we went off the
25 record, you said that the fuel line

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2 lenders were the only parties to assert
3 current expense claims.

4 A Based on my understanding
5 and our review.

6 Q So you're saying that you're
7 not aware of any other creditors of PREPA
8 that have asserted they hold current
9 expense claims?

10 A We reviewed the proofs of
11 claim that were filed. We reviewed the
12 supplemental disclosures or the
13 supplemental exhibits that were filed
14 along with the proof of claims. And we
15 didn't identify any other claimants that
16 had actually asserted a current expense
17 claim, other than the fuel line lenders.

18 Q So to the best of your
19 knowledge, there have been no other
20 current expense claims asserted against
21 PREPA?

22 A To the best of my knowledge.

23 Q Has BRG undertaken any
24 analysis to determine if there will be
25 current expense claims asserted in the

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2 future?

3 MS. STAFFORD: Objection,
4 legal conclusion.

5 A We weren't asked to do that
6 analysis.

7 Q And at the beginning of your
8 deposition, Mr. Despins explained that
9 you were also the board's 30(b)(6)
10 designee. Do you recall that?

11 A Yes.

12 Q I just want to stop and note
13 for the record that the bondholder
14 parties didn't receive notice that you
15 had been designated as the board's
16 30(b)(6).

17 But as the board's 30(b)(6),
18 are you aware of the board conducting any
19 analysis to determine whether additional
20 current expense claims will be asserted
21 against PREPA?

22 A I'm not aware of any
23 analysis that has been conducted.

24 Q Are you aware of any claims
25 against PREPA that have been asserted by

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2 other governmental entities?

3 A Yes.

4 Q And let me specify.

5 Government entities of Puerto Rico.

6 A I assume that's what you
7 meant, yes, is the answer.

8 Q I was clarifying for my
9 mistake of not clarifying, but thank you.

10 A I trusted you.

11 Q Do you know the aggregate
12 amount of those claims?

13 A So the aggregate amount of
14 the other governmental claims, they have
15 I believe -- if I can refer to --

16 Q Yeah. I'm not sure it's on
17 there. But take a look.

18 A It's probably not, no. It's
19 not.

20 Q Just a ballpark is fine.

21 A So I know that there were
22 six claims that were filed by
23 municipalities, which I considered a
24 government agency, only because it's a
25 municipality. And my recollection is

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2 that those claims that were filed, those
3 were CILT claims. The CILT claims that
4 were asserted by these six were -- my
5 recollection is maybe in the \$150 million
6 range, if not more. But the other
7 governmental agency claim that was filed
8 against PREPA was filed by PRASA. And
9 that claim relates to a certain claims
10 for -- it's their water company.

11 So there were certain claims
12 that were raised related to the amounts
13 that PREPA owed them under a water
14 contract, or to the best of my knowledge,
15 that's what it was related to.

16 Q So to the best of your
17 knowledge, there's about 150 million in
18 CILT claims, plus the PRASA claim?

19 A Yes. That's the best of my
20 knowledge for the government claims.

21 Q I won't hold you to any
22 numbers.

23 A Thank you.

24 Q Do you know if PREPA has
25 claims against any of these entities, the

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2 CILT entities or PRASA?

3 A My understanding is that on
4 PRASA claim, that there was -- there
5 was -- I don't know if it was a claim.
6 But there was a dispute with regard to
7 the level of claim that -- or whether
8 there could be potential of any offsets
9 to the claim that PRASA was asserting.

10 Q You're not aware of any
11 similar offsets related to the CILT
12 claims?

13 A As it relates to the CILT
14 claims, my understanding is that there
15 are -- essentially, it's really an offset
16 of obligations that PREPA would owe to
17 that municipality for taxes. And they
18 would -- it was in lieu of the taxes they
19 would provide them with electricity. And
20 so that's like an offset. It's a claim
21 against, you know...

22 MR. KELLY: Mr. Shankweiler,
23 I think that's it for me. Thank you
24 for your time. I'll pass the
25 witness.

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2 EXAMINATION BY

3 MS. TOMIC:

4 Q Good afternoon. It's Jane
5 Tomic from Kramer. Hi, Mr. Shankweiler.
6 I just have a couple of follow-up
7 questions from earlier today. Mr. Kelly
8 was just talking about offsets. So I'll
9 start there.

10 Are you aware of any other
11 categories of claims or specific claims
12 that you looked at that would potentially
13 be paid through offsets?

14 MS. STAFFORD: Objection,
15 form.

16 A So other than the process is
17 a claim, which I believe was reduced, and
18 the CILT claims, which my understanding
19 is that the current CILT claims, those
20 all represent post-petition obligations
21 in that there are no existing or
22 remaining pre-petition obligations
23 related to the CILT claims. I'm not
24 aware of any other claims as I sit here
25 today that would be paid via offset.

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2 Q So switching gears a little
3 bit, earlier this morning, one of the
4 first things that you were asked about by
5 Mr. Despins was the PPOA claims and
6 specifically, the lost revenue component
7 of those claims?

8 A Yes.

9 Q And there was a discussion
10 about the validity of those claims. And
11 I believe you gave two numbers. My
12 understanding of your testimony was that
13 these were numbers that discounted the
14 estimate based on the likelihood of
15 success for litigation of the lost
16 revenue claims; is that correct?

17 A I think you said it better
18 than I did, but yes.

19 Q So those two numbers I
20 believe were a 30 percent number and a 0
21 number. And if we could pull up
22 Exhibit 4, page 3, it might help a little
23 bit.

24 So I just wanted to go back
25 and clarify what you meant by these two

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2 numbers to make sure that it was clear on
3 the record.

4 So you said -- I believe you
5 said on the low end, you applied a zero
6 for these, the lost revenue component.
7 So does that mean that on this chart, the
8 estimated value low for line 1, that
9 reflects zero for the claims for the lost
10 revenue component?

11 A The \$65.6 million number in
12 the low estimate, I believe that's
13 correct. That would include zero dollars
14 for any lost revenue components of the
15 claim.

16 Q And then you also talked
17 about 30 percent and said that we
18 provided a high amount or a higher amount
19 of 30 percent and referred to it as a
20 cushion. And I just wanted to clarify.

21 Is that 30 percent reflected
22 in the estimated value high column or the
23 adjusted estimated value column?

24 A So that would have been
25 included in our high estimate, the

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2 30 percent there as a high estimate of
3 what that claim would potentially be --
4 what a valid claim would be worth.

5 Q So that would have been
6 30 percent of the total of those lost
7 revenue claims --

8 A Correct.

9 Q -- was included?

10 A Yes.

11 Q So effectively, it was
12 discounted? The lost revenue component
13 was discounted 70 percent; is that
14 accurate?

15 A Correct, in the highest
16 amount.

17 Q In the highest amount, yes.

18 And then what was that
19 number or what was the number used in the
20 adjusted estimated value for the lost
21 revenue component claim?

22 A In that case, it would be
23 the midpoint for that particular portion
24 of those claims.

25 Q So in between 0 and

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2 30 percent?

3 A In between 0 and 30 percent.

4 MS. STAFFORD: I just want
5 to remind you to let her finish
6 asking the question before you start
7 answering.

8 THE WITNESS: Noted.

9 Q And then for any of these
10 other categories of claims, so we have
11 the -- on the exhibit, we have other
12 categories of the general unsecured
13 claims, and they're numbered 1 through
14 12.

15 And my question is, did you
16 apply any percent discount based on an
17 analysis of the validity of claims in a
18 similar way to what we just talked about
19 with the PPOA and lost revenues to any
20 other category of claim?

21 MS. STAFFORD: Objection,
22 form.

23 A So if you look at line 4,
24 litigation with Vitol, there were
25 approximately 200 litigation claims. And

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to the extent that we didn't provide a specific value based on our review of the values that were provided for those claims by Diaz & Vazquez as they evaluated them for either transfer to ADR or for estimation of the claims or that they simply hadn't gotten the files as the time of this report to evaluate based on our review -- based on our review, we assigned a value, or we risk assessed some of the litigation claims that hadn't been specifically provided a value by D&V. We assigned a risk adjustment, so that we would -- we reduced the claim by 90 percent to come up with a 10 percent value for those remaining claims, litigation claims.

Q And how did you come up with the 90 percent number?

A There were a number of ways. We looked at the types of litigation claims. We looked at what the estimates -- what the ultimate settlement amounts were based on the work that Diaz

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2 & Vazquez had done for similar claims and
3 in certain -- for certain claims, just
4 understanding the nature of the claim and
5 wanting to ensure that there were --
6 there was going to be sufficient cushion
7 in the estimate to the extent that these
8 claims, which hadn't been resolved yet,
9 were actually provided some value.

10 Q So to clarify, you reduced
11 the claim by 90 percent to come up with a
12 10 percent value for the remaining
13 litigation claims.

14 When you're talking about
15 this reduction, are you talking about in
16 a specific column on this table where
17 that's reflected? Was that across the
18 board in all three of these?

19 A So, again, we have a list of
20 all the litigation claims. And we
21 identify those, which were actually --
22 those actually came up with, that
23 settlement values were provided that --
24 the settlement values were transferred to
25 ADR estimates which were provided based

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2 on analysis performed by D&V and reviewed
3 by us.

4 So to the extent that there
5 were any remaining claims, we assigned a
6 value to those, and I think at the end of
7 the day, there may have been 35 to 40
8 claims that hadn't at this point been
9 provided a value. And so for those --
10 for those -- when I say hadn't been
11 provided a value, they hadn't been
12 reviewed and memos prepared by D&V. We
13 assigned a value for the adjusted
14 estimated value of 10 percent for
15 those -- that population of litigation
16 claims.

17 Q Turning back just briefly to
18 the PPOA claims and the lost revenue
19 component, earlier today, you had
20 testified that in conversations with Diaz
21 & Vazquez, you were told that Puerto Rico
22 Law would not recognize the valid claim
23 for lost profits, and you also talked
24 about the PPOA contracts not permitting a
25 claim for lost profits in connection with

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2 the decision to discount the estimate
3 based on the likelihood of success in
4 litigation for the lost revenue
5 component.

6 Were the specific
7 percentages -- were there specific
8 percentages given to you -- I guess how
9 were those percentage -- more
10 specifically, how were those
11 percentages -- how did you come up with
12 those percentages?

13 MS. STAFFORD: Objection,
14 form.

15 A So, again, understanding and
16 the guidance I was provided by both Diaz
17 & Vazquez, as well as Proskauer, related
18 to that category of the claim or that
19 component of the claim, we used -- we
20 looked at what we felt a reasonable value
21 would be, so that 30 percent was
22 judgmental, and in reviewing the level --
23 just based on -- based on the information
24 that we had, we felt that a 30 percent --
25 a 30 percent risk factor would be

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2 appropriate based on the size of the
3 claims and based on our understanding
4 that these are not valid claims, either
5 contractually or in the court, in the
6 Puerto Rican courts, just to provide
7 sufficient cushion.

8 Q And when you're saying we in
9 that answer, we made a judgment call, who
10 is the we you're referring to
11 specifically?

12 A That was -- that was -- you
13 know, we came up with a value. And it
14 was including the conversations,
15 including my team and included
16 conversations with Proskauer.

17 Q So was the actual percentage
18 something that BRG came up with based on
19 the information and conversations or was
20 that percentage given to BRG?

21 MS. STAFFORD: Objection,
22 form.

23 A I think it was a consensus
24 as to -- you know, we came up with a --
25 we came up with an estimate that we

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2 thought was reasonable based on our
3 conversations.

4 Q So to clarify, when you're
5 saying we there, you're referring to?

6 A BRG.

7 Q Not just BRG or just BRG?

8 A Well, I think that would
9 have been the group, I mean the group,
10 the consensus that came up with regarding
11 a 30 percent value based on what we had
12 discussed before, the likelihood of
13 success in asserting a lost profits
14 claim, but yet wanting to be conservative
15 enough to ensure that since these may or
16 may not still be contested and disputed
17 in the event that a court would find that
18 it would be a valid claim or potentially
19 a valid claim for lost profits, that we
20 would have sufficient reserve in the
21 claim estimate amount to account for that
22 uncertainty.

23 Q And you mentioned wanting to
24 be conservative.

25 So in your view, were those

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2 percentages, the adjusted estimated
3 value -- sorry.

4 In your view, was the
5 30 percent cushion that you described a
6 conservative cushion?

7 A Without really -- I don't
8 know ultimately what a court would find
9 if these types of claims go into
10 litigation. Whether it's conservative --
11 I don't know how to define conservative.
12 It's sort of like subjective; right? I
13 thought it was an appropriate number to
14 provide a reserve for any uncertainties
15 related to what could potentially happen
16 in court.

17 Q Can you describe a little
18 bit about how why you thought it was an
19 appropriate number?

20 A One of the cases that we
21 reviewed when it comes to the PPOA that
22 had lost revenue components was a KDC
23 case, KDC, which had -- which was a
24 master PPOA that was in arbitration. So
25 that informed our opinion.

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2 And the result of that
3 arbitration award, they disallowed -- the
4 award that was allowed in the
5 arbitration, this disallowed any claim
6 related to the lost profits portion of
7 the claim that KDC had against PREPA. So
8 that's really -- that was the case that
9 we read. And that case is actually filed
10 in -- against PREPA.

11 And based on our discussions
12 with the attorneys at PREPA, we felt that
13 was an appropriate level, not too high,
14 not too low, but it felt that would be a
15 sufficient cushion to allow for potential
16 adverse rulings.

17 Q In connection with the
18 claims estimation work BRG was doing, was
19 BRG asked to discount any claims back to
20 present value?

21 A Could you repeat the
22 question, please?

23 Q So in connection with the
24 claims estimation work BRG was doing, was
25 BRG asked to discount any claims back to

1 MARK SHANKWEILER

2 present value? I could give you an
3 example of what I mean if it's not clear.

4 A So I understand your
5 question.

6 No. We weren't asked to
7 present value any claims or present value
8 any of the claims.

9 Q I'm going to ask a little
10 bit more specifically here too, just for
11 the record.

12 So we were talking about
13 lost revenue, the lost revenue component
14 of the PPOA claims. And it's my
15 understanding that those claims are
16 paid -- are like future payment claims.
17 Do you understand what I mean by that?

18 MS. STAFFORD: Objection to
19 form.

20 A I do.

21 Q And how would you describe
22 like a future payment claim, how I just
23 used it?

24 MS. STAFFORD: Objection,
25 form.

1 MARK SHANKWEILER

2 A So when you -- when we
3 reviewed the proofs of claim that were
4 filed by the PPOA claimants, their lost
5 revenue portion of the claim oftentimes
6 included a schedule of what their
7 potential revenues would be as they go
8 out 20 or 25 years, whatever the initial
9 term of that contract would be. And then
10 my recollection is that oftentimes, in
11 certain circumstances, the claim that was
12 provided, I believe they may have
13 discounted it back to present value.

14 Q So when you say they may
15 have discounted back to present value,
16 who is the they?

17 A So by they, I meant the
18 claimant.

19 Q The claimant.

20 So on the actual proof of
21 claim that they submitted, that the
22 claimant submitted, you believe there may
23 have been present value discounts created
24 there?

25 A My recollection is that

1 MARK SHANKWEILER

2 certain of the claims may have provided a
3 present value discount.

4 Q And was that something that
5 was clearly evident from the proof of
6 claim, like it was stated on the proof of
7 claim that that was done?

8 A I don't recall the specific
9 verbiage. But if you were to analyze the
10 actual proof of claim and look at the
11 calculation of the lost profits, I
12 believe at least in one instance, there
13 was a calculation where they calculated a
14 present value of the future revenue
15 streams that they were expecting under
16 that contract.

17 Q And did BRG conduct any
18 analysis to see how many of the lost
19 profit claims on the proof of claims
20 documents did that type of analysis?

21 MS. STAFFORD: Objection,
22 form.

23 A I don't think we
24 specifically looked at that to like come
25 up with a number or what this number did.

1 MARK SHANKWEILER

2 But in our review of the lost profits
3 component of the claim, my recollection
4 is that that is what they otherwise would
5 have employed, that technique or that
6 calculation.

7 Q And if that calculation was
8 present on a proof of claim that was
9 submitted and BRG was analyzing, the
10 number that you then inputted into your
11 estimation for the lost revenue
12 component, did you use the value that was
13 discounted for present value or did you
14 use the claim before it was discounted
15 for present value?

16 MS. STAFFORD: Objection,
17 form.

18 A So the amounts that were
19 asserted, we will have looked -- we
20 looked at the -- we would have looked at
21 or included in our analysis, the 0 to
22 30 percent of the lost profit claim that
23 they had asserted.

24 Q So just to clarify to make
25 sure I'm understanding, so BRG didn't

1 MARK SHANKWEILER

2 conduct any analysis to calculate or to
3 discount a lost revenue claim component
4 of the PPOA claims back to present value;
5 is that correct?

6 MS. STAFFORD: Objection,
7 form.

8 A That's correct.

9 Q And you testified that some
10 of the proof of claims that were
11 submitted had -- or at least one of the
12 proof of claims that was submitted had
13 done an analysis where the claimant had
14 calculated the value of the lost revenue
15 component back to present value?

16 A That's my recollection, that
17 the claimant would have included a
18 present value calculation.

19 Q And then when BRG was
20 looking at the total amount for the lost
21 revenue component of claims in the -- in
22 its estimation, my question that I'm not
23 sure I understood the answer to earlier
24 was -- and it definitely was my fault for
25 not asking clearly -- is, would BRG have

1 MARK SHANKWEILER

2 or do you remember if BRG would have used
3 the proof of claims calculation that
4 discounted for present value in its -- in
5 BRG's estimation?

6 MS. STAFFORD: Objection,
7 form.

8 A Yes. We would have used the
9 discounted value, so long as that is a
10 component of the total asserted value,
11 yes.

12 Q And you remember
13 specifically, there was just one proof of
14 claim, a discount of that nature that
15 discounted back to present value?

16 MS. STAFFORD: Objection to
17 form, asked and answered.

18 A I believe so. I mean I
19 think there may have been more. But I
20 just can't recall the exact. Going back,
21 you know, when we initially looked at
22 these, my recollection is that they did
23 oftentimes have those -- have those
24 discounted future cash flows in deriving
25 the number. I just can't remember

1 MARK SHANKWEILER

2 specifically, you know, which ones.

3 Q Do you believe that it was
4 reasonable to not discount the lost
5 revenue claims back to present value?

6 MS. STAFFORD: Objection,
7 form.

8 A So yes. In any claims
9 estimation as of the current day, you
10 would not be able to, you know, assume --
11 you would have to discount any -- you
12 would have to discount it back for
13 reasonable value of the claim.

14 Q So you said an estimation of
15 the current day, you would not be able to
16 assume, you would have to discount it
17 back for reasonable value of the claim.

18 Do you know why in this
19 case, you didn't or BRG didn't discount
20 for present value with respect to the
21 lost profit component of the PPOA claims?

22 MS. STAFFORD: Objection to
23 form.

24 A So our -- there's no
25 specific reason. I think, as I sit here

1 MARK SHANKWEILER

2 today, that the claims are -- our view is
3 that the, you know, claims based on our
4 advice that for the lost profit claims
5 are, you know, not valid claims.

6 So to the extent that they
7 are valid claims, we assigned at the high
8 end, 30 percent as a cushion. We didn't
9 specifically go through and determine
10 whether or not, or we didn't specifically
11 go through and recalculate the lost
12 profits portion, applying what we felt a
13 reasonable discount factor should be.

14 But what we did do is we
15 provided a range of claims that should --
16 depending on ultimately what the outcome
17 of any potential litigation would be
18 would capture a value that would provide
19 a sufficient cushion to establish a claim
20 value.

21 Q And was that determination
22 that you just described where the
23 30 percent discount would capture any
24 present value discount a decision that
25 BRG made as part of its analysis and

1 MARK SHANKWEILER

2 estimation?

3 MS. STAFFORD: Objection,
4 form.

5 A So I mean we came up with a
6 range that we thought was a reasonable
7 value of potential -- potential exposure
8 or a potential obligation -- potential
9 claim that might come up without -- and
10 we didn't really specifically consider
11 the present valuing of a -- of a claim
12 for lost profits for a project. That was
13 never even approved and got off the
14 ground or even developed. So I don't
15 know if I answered your question.

16 Q That answered it. Thank
17 you. Sorry. I'm just taking a look at
18 my notes briefly.

19 Earlier, we were discussing
20 future claims.

21 Are you aware of any other
22 claims besides the -- that you analyzed
23 in connection with the claims estimation
24 that are also future claims --

25 MS. STAFFORD: Objection to

1 MARK SHANKWEILER

2 form.

3 Q -- as we were discussing the
4 term earlier?

5 A Could you define future
6 claims again, make sure that I understand
7 your question?

8 Q Yes.

9 So with respect to, for
10 example, the lost profit claims, those
11 would have been paid out year to year in
12 the future. So my question is either
13 other claims that you looked at that
14 wouldn't have.

15 A Not that I'm aware of.

16 Q Not that you're aware of.
17 Thank you.

18 Switching gears a little
19 bit, one of the other components of the
20 PPOA claims that you discussed today was
21 the development portion of them.

22 Do you know what I'm talking
23 about when I say that, the development
24 portion --

25 MS. STAFFORD: Objection to

1 MARK SHANKWEILER

2 form.

3 Q -- component?

4 A I do.

5 Q And it was my understanding
6 from your testimony earlier that there
7 was no discount applied to that component
8 of the PPOA claims. And by that
9 component, I mean the development
10 component.

11 A That's correct.

12 Q And you explained a little
13 bit earlier about why that was. So I'm
14 not going to ask you that again.

15 But one follow-up question I
16 did have on that same topic is, were
17 you -- are you aware, do you have any
18 sense of how many of the development
19 claims -- did you conduct any
20 investigation into the validity of the
21 development claims?

22 MS. STAFFORD: Objection,
23 form.

24 A Yes.

25 Q As part of that

1 MARK SHANKWEILER

2 investigation, do you have any sense as
3 to how many of the power plants, subject
4 to the PPOA agreements, that are the
5 subject of these PPOA claims were never
6 developed at all or development was never
7 started?

8 MS. STAFFORD: Objection to
9 form.

10 A So I understand based on the
11 PPOA claims that are included in this
12 estimate, development costs are part of
13 the overall process in negotiating,
14 coming up with plans, et cetera, to
15 propose to PREPA. And so our
16 understanding is that as they go through
17 the development phase, that the PPOA
18 counterparties coordinate with PREPA in
19 coming up with what their designs are for
20 the project.

21 And so there are development
22 costs that were incurred in conjunction
23 with that effort in order to get a PPOA
24 project approved. And oftentimes -- my
25 understanding is that oftentimes, that

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1 included getting reports from PPOA to
2 understand what the process is as it
3 relates to the development of a project,
4 as it gets towards a commercial operation
5 or starting a construction, to determine
6 whether or not it's shovel ready to start
7 the construction phase of a project. The
8 developing -- so the development costs
9 for these PPOA claims were likely
10 underway, otherwise they never would have
11 gotten off the ground.
12

13 So there are costs that are
14 incurred. The issue is that these are
15 not costs that they submit to PREPA to
16 have them reimburse them for the
17 development costs because that's part of
18 the responsibility of the PPOA
19 counterparty. And they would earn those
20 development costs back once the project
21 was approved and they started earning
22 revenues under the PPOA. That's the way
23 it was explained to me. That's my
24 general understanding of the way these
25 projects are financed.

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2 And so as it relates to --
3 as it relates to the development costs
4 itself, we had conversations with the
5 project management office, employees of
6 PREPA to determine whether or not the
7 development costs that they had included
8 made sense to them and could be validated
9 by them.

10 And in many instances --
11 when I say in many instances, the answer
12 that we got from the project management
13 office when we reviewed these PPOA claims
14 was that they understood that in certain
15 circumstances that there were development
16 costs that were incurred because of the
17 number of years that they were going
18 through and exchanging plans and going
19 through the licensing or the regulatory
20 process in order to get approvals.

21 And so that's -- you know,
22 each one of those -- each one of those
23 cases, each one of the claims that were
24 filed, we had these conversations with
25 PREPA's employees. And so the

1 MARK SHANKWEILER

2 development costs that were included in
3 there -- while we couldn't verify the
4 actual amount of the development costs,
5 we did get the sense that development
6 costs were incurred in coming up with
7 plans and in securing licenses.

8 MS. TOMIC: I think I'm
9 almost done. But if possible, could
10 we take a quick break off the record?
11 And I could touch base with attorneys
12 from Quinn and Cadwalader.

13 MS. STAFFORD: Yes,
14 absolutely.

15 THE VIDEOGRAPHER: Off the
16 record at 14:34.

17 (A short recess was taken.)

18 THE VIDEOGRAPHER: We are on
19 the record at 14:46.

20 Q I just have a couple of more
21 questions. Then I will be done.

22 So going back to another
23 topic that you testified about early on
24 in the day was objections, and I believe
25 you said that -- or you testified that to

1 MARK SHANKWEILER

2 your knowledge, there are no objections
3 to the PPOA claims that had been
4 submitted yet; is that correct?

5 A That's my understanding,
6 yes.

7 Q And have you conducted any
8 analysis how the estimation would change
9 if PPOA objections were submitted?

10 MS. STAFFORD: Objection to
11 form.

12 A Could you repeat the
13 question?

14 Q So from your -- I'll
15 rephrase it.

16 From your earlier testimony,
17 it sounded like you were anticipating
18 there being PPOA objections filed; is
19 that fair?

20 A Correct.

21 Q And have you done any
22 analysis or has BRG done any analysis of
23 how the estimation that BRG -- the claims
24 estimation that BRG calculated would
25 change if those anticipated PPOA

1 MARK SHANKWEILER

2 objections were submitted?

3 MS. STAFFORD: Objection to
4 form.

5 A So I think the asserted
6 claim would still be the asserted claim.
7 Once an objection is filed, the process
8 starts for the ability to adjudicate that
9 claim and come to some sort of a
10 resolution. And so absent the process
11 taking place, whether it be in either
12 ADR, whether it be in a court or
13 whatever, you know, venue that it would
14 have to be resolved, we don't have any
15 real view of what the ultimate outcome of
16 that would be.

17 So I don't believe I would
18 be able to determine without that
19 happening, what any adjustments would be
20 to the current claims, just because you
21 file an objection. The party can respond
22 to that. So I don't think we would make
23 any objections until -- or any revisions
24 to the claims estimates until that played
25 out.

1 MARK SHANKWEILER

2 Q And has BRG done any
3 analysis or had any discussions with the
4 board entities about the likelihood of
5 the anticipated PPOA objection success on
6 the merit?

7 MS. STAFFORD: Objection to
8 form. I'm just going to caution you
9 not to reveal any privileged
10 information.

11 A Not specifically, no.

12 Q And then just finally,
13 earlier, I believe it was Exhibit 3, UCC
14 submitted the oversight board's expert
15 disclosures.

16 Are you aware that in that
17 document, the board disclosed that you'll
18 be testifying at the confirmation
19 hearing?

20 MS. STAFFORD: Objection to
21 form.

22 A So in Exhibit 3, am I aware
23 that I may testify at the confirmation
24 hearing?

25 Q Yes.

1 MARK SHANKWEILER

2 A So I believe I was aware
3 that I might be asked to testify at the
4 confirmation hearing, yes.

5 Q And according to Exhibit 3,
6 the topics of your testimony or expected
7 testimony might include the -- you can
8 read them on page 9 --

9 A Yes.

10 Q -- the estimated total
11 amount of allowed general unsecured
12 claims against PREPA, the eminent domain
13 and inverse condemnation claims and the
14 estimated total amount of federal claims?

15 A Yes.

16 Q And is that consistent with
17 what topics you anticipate potentially
18 testifying about at the confirmation
19 hearing?

20 A Yes.

21 Q Are you aware of any other
22 topics that you might testify about at
23 the confirmation hearing, other than
24 those provided here on page 9 and 10 of
25 Exhibit 3?

1 MARK SHANKWEILER

2 A I am not.

3 MS. TOMIC: I think those
4 are all of my questions. I'm not
5 sure if anyone else is doing any
6 questioning. But that concludes the
7 questioning from Kramer Levin.

8 MS. STAFFORD: I have just
9 one question if no one else has
10 anything else.

11 EXAMINATION BY

12 MS. STAFFORD:

13 Q So earlier today -- I just
14 want to make sure that we have one thing
15 clear on the record.

16 So earlier today,
17 Mr. Despins asked you some questions
18 about the UTIER CBA and potential
19 rejection claims?

20 A Yes.

21 Q Have you been asked to
22 provide an estimation of the amount of a
23 rejection damages claim in the event that
24 the UTIER CBA is rejected?

25 A No.

1

2

MS. STAFFORD: Thank you.

3

That's all.

4

THE VIDEOGRAPHER: Anybody

5

on Zoom with questions? This

6

concludes today's testimony given by

7

Mark Shankweiler as stipulated by all

8

parties. The total number of media

9

units used was three and will be

10

retained by Veritext Legal Solutions.

11

Off the record at 14:53.

12

Thank you.

13

(Time noted: 2:53 p.m.)

14

15

MARK SHANKWEILER

16

17

18

Subscribed and sworn to

19

before me on this _____ day

20

of _____, 2023.

21

22

NOTARY PUBLIC

23

24

25

I N D E X

E X A M I N A T I O N

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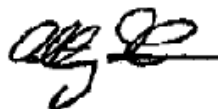
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C E R T I F I C A T I O N

I, ANTHONY GIARRO, a Shorthand
Reporter and a Notary Public, do hereby
certify that the foregoing witness, MARK
SHANKWEILER, was duly sworn on the date
indicated, and that the foregoing, to the
best of my ability, is a true and accurate
transcription of my stenographic notes.

I further certify that I am not
employed by nor related to any party to
this action.



ANTHONY GIARRO

ERRATA SHEET

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NAME OF CASE: In re: the Financial
Oversight and Management Board for Puerto
Rico, as Representative of the Commonwealth
of Puerto Rico, et al.

DATE OF DEPOSITION: May 22, 2023

NAME OF DEPONENT: Mark Shankweiler

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MARK SHANKWEILER

SUBSCRIBED AND SWORN TO BEFORE ME

THIS ____ DAY OF _____, 20__.

(NOTARY PUBLIC) MY COMMISSION EXPIRES:

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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